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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: January 31, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531, 550, and 575

RIN 3206-AE23

Special Pay Adjustments for Law Enforcement Officers in Selected Cities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations on the special pay adjustments for law enforcement officers authorized by section 404 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). The final regulations establish rules for applying these special pay adjustments to law enforcement officers under the General Schedule, the Senior Executive Service, or the Senior Level pay system in the following designated Consolidated or Metropolitan Statistical Areas (CMSA's or MSA's): Boston-Lawrence-Salem, MA-NH; Chicago-Gary-Lake County, IL-IN-WI; Los Angeles-Anaheim-Riverside, CA; New York-Northern New Jersey-Long Island, NY-NJ-CT; Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD; San Francisco-Oakland-San Jose, CA; San Diego, CA; and Washington, DC-MD-VA.

EFFECTIVE DATES: These regulations are effective on the first day of the first pay period beginning on or after January 1, 1992, except 5 CFR 550.101(b)(9), which is effective on January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Belva MacDonald, (202) 606-2858 or (FTS) 266-2858.

SUPPLEMENTARY INFORMATION: On October 22, 1991, OPM published proposed regulations to implement section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509, November 5, 1990), which established special pay adjustments of 4, 8, or 16 percent of basic pay for a law enforcement officer whose official duty station is in one of eight designated areas (56 FR 54549). These adjustments will become effective on the first day of the first pay period beginning on or after January 1, 1992.

The 30-day comment period ended on November 21, 1991. Comments were received from three individuals, two Federal agencies, and one labor organization. These comments, as well as certain changes and clarifications of the proposed regulations, are summarized below.

Definition of Law Enforcement Officer

An agency commented that several employees have successfully appealed their retirement coverage and have retroactively received service credit as law enforcement officers for retirement purposes. The agency observed that in the future such a retroactive decision granting an employee in one of the designated areas law enforcement officer retirement coverage would mean that the employee's basic pay, premium pay, and employment benefits, such as retirement contributions and life insurance premiums, must be recalculated to reflect the special pay adjustment for law enforcement officers. OPM agrees. If employees retroactively are granted retirement system coverage, there is no basis for depriving such employees of their pay entitlements under the back pay law.

The definition of "law enforcement officer" used in these regulations is taken directly from title IV of FEPCA. OPM has no authority to modify this definition. However, it should be noted that the title IV provisions for law enforcement officers are intended as interim entitlements pending development of a separate pay and classification system for law enforcement officers. As required by FEPCA, OPM is conducting a study to develop a plan for such a system and is considering the use of definitional criteria other than those used in the retirement laws. In the meantime, agencies are bound by findings under the retirement laws.

Computation of Overtime Pay

A labor organization noted that the proposed regulations would revise 5 CFR 550.113(a) to incorporate special pay adjustments for law enforcement officers under section 404 into the computation of the GS-10, step 1, limitation on the hourly rate of overtime pay for an employee whose rate of basic pay does not exceed the minimum rate of pay for GS-10, but would not make a similar revision in 5 CFR 550.113(b) (concerning an employee whose rate of basic pay exceeds the minimum rate of pay for GS-10). On May 3, 1991, OPM amended § 550.113(b) to incorporate the rates of basic pay determined under § 550.113(a). (See 56 FR 20342.) Since the proposed regulations incorporated references to the special pay adjustments for law enforcement officers in § 550.113(a), modification of § 550.113(b) is unnecessary.

Limitations on Pay

An individual noted that the proposed regulations do not reflect statutory limitations on the total amount of basic pay plus special pay adjustments for law enforcement officers that may be paid. This individual pointed out that 5 U.S.C. 5304(g) limits the total of comparability payments under section 5304 of title 5, United States Code, plus basic pay, to a maximum of the rate for level IV (or, for certain employees, such as those in the Senior Executive Service, level III) of the Executive Schedule. Since the statute requires OPM, to the extent practicable, to administer special pay adjustments for law enforcement officers in the same manner as comparability payments, OPM is incorporating these limitations in the final regulations.

Definitions of "Rate of Basic Pay"

An individual noted that the proposed regulations excluded the special rates of pay under section 403 of FEPCA from the definitions of "rates of basic pay" for purposes of computing recruitment and relocation bonuses, retention allowances, and supervisory differentials. Since special rates of pay, whether established under 5 U.S.C. 5305 or section 403 of FEPCA, are the employee's rates of basic pay, they must be used to compute recruitment and relocation bonuses, retention allowances, and supervisory

differentials. References to special rates of pay for law enforcement officers established under section 403 of FEPCA as "additional pay" have been deleted from the appropriate sections of the final regulations.

FBI Demonstration Project

An individual questioned the reduction in the retention payment payable to an employee of the New York Field Division of the Federal Bureau of Investigation (FBI) under section 601(a)(2) of Public Law 100–453, as amended, by the full 16 percent special pay adjustment for law enforcement officers in the New York Consolidated Metropolitan Statistical Area (CMSA). The individual observed that under the interim regulations on interim geographic adjustments, the retention payment has already been reduced by the 8 percent interim geographic adjustment paid to all General Schedule employees, including employees of the New York Field Division of the FBI. (See 56 FR 773, January 9, 1991). OPM has clarified the regulations to avoid an implication that the retention payment will be reduced both by the 8 percent interim geographic adjustment and the 16 percent special pay adjustment for law enforcement officers.

Miscellaneous

An agency requested clarification of a statement in the Supplementary Information accompanying the proposed rule concerning rates of basic pay to be used for certain pay administration purposes. The agency observed that a special salary rate established under 5 U.S.C. 5305 may be used as an employee's highest previous rate under 5 CFR part 531 only in limited circumstances—i.e., in a reassignment within the agency where an appropriate official determines that the need for the employee's services will be greater in the position to which reassigned. The agency is correct. In circumstances other than the limited one described above, the highest previous rate is based on the law enforcement officer's scheduled rate of basic pay for the grade or pay level and step (or relative position in the rate range) and does not include any applicable special salary rate under section 403 of FEPCA.

Proposed changes in the interim regulations on the aggregate limitation on pay (5 CFR part 530, subpart B) are being made effective as part of a separate **Federal Register** notice. Also, the final regulations clarify the definition of "scheduled annual rate of pay" in 5 CFR 531.101 and 531.301.

Finally, OPM is publishing regulations to implement section 411 of FEPCA. Section 411 amends section 5541(2)(iv) of title 5, United States Code, to permit payment, effective January 1, 1992, of premium pay for night work under section 5545(a) and for Sunday and holiday work under section 5546 to members of the United States Park Police and members of the United States Secret Service Uniformed Division. Therefore, OPM is making a technical and conforming change in the regulations that previously prevented members of the United States Park Police and members of the United States Secret Service Uniformed Division from receiving these types of premium pay under title 5, United States Code.

E.O. 12291, Federal Regulations

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, since it applies only to Federal employees and agencies.

List of Subjects

5 CFR Parts 531 and 575

Government employees, Wages, Administrative practice and procedure.

5 CFR Part 550

Government employees, Wages Civil defense, Administrative practice and procedures.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending parts 531, 550, and 575 of Title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, 5338, and Chapter 54; E.O. 12748; subpart A issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462, and E.O. 12736; subpart B also issued under 5 U.S.C. 5303(g), 5333, 5402, and 7701(b)(2); subpart C also issued under section 404 of Public Law 101–509, 104 Stat. 1466, and E.O. 12748; subpart D also issued under 5 U.S.C. 7701(b)(2); subpart E also issued under 5 U.S.C. 5336.

2. In § 531.101, paragraph (a) of the definition of "scheduled annual rate of pay" is revised to read as follows:

§ 531.101 Definitions.

* * * * *

Scheduled annual rate of pay means—

(a) The General Schedule rate of basic pay (or a nationwide or worldwide special salary rate under part 530 of this chapter or a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), if applicable) for the employee's grade and step (or relative position in the rate range), exclusive of additional pay of any kind, such as premium pay.

* * * * *

3. In § 531.205, the section heading, paragraph (a) introductory text, and paragraph (b) are revised to read as follows:

§ 531.205 Pay schedule conversion rules at the time of an annual pay adjustment under 5 U.S.C. 5303.

(a) On the effective date of a pay adjustment under 5 U.S.C. 5303, the rate of basic pay of an employee subject to the General Schedule shall be initially adjusted, except as provided in paragraph (b) of this section, as follows:

* * * * *

(b) Rates of basic pay authorized under section 5305 of title 5, United States Code, paid to an employee subject to the General Schedule shall be adjusted by reason of a pay adjustment under 5 U.S.C. 5303 in accordance with § 530.307 of this part.

4. Subpart C is added to read as follows:

Subpart C—Special Pay Adjustments for Law Enforcement Officers

Sec.

Subpart C—Special Pay Adjustments for Law Enforcement Officers

§ 531.301 Definitions.

In this subpart:

Law enforcement officer means a law enforcement officer within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code, with respect to whom the provisions of chapter 51 of such title apply, including members of the Senior Executive Service.

Official duty station means the duty station for a law enforcement officer's position of record as indicated on his or her most recent notification of personnel action.

Scheduled annual rate of pay means—

(a) The rate of basic pay for a law enforcement officer's grade or pay level and step (or relative position in the rate range), including special rates for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), but not including special salary rates established under 5 U.S.C. 5305, or additional pay of any kind, such as premium pay;

(b) For a law enforcement officer covered by the Performance Management and Recognition System who is receiving a special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509)), the rate of pay resulting from the following computation—

(1) Using the special salary rate schedule established under 5 U.S.C. 5305, subtract the dollar amount for step 1 of the law enforcement officer's grade from the dollar amount for the law enforcement officer's special salary rate; and

(2) Add the result of paragraph (b)(1) to the dollar amount for step 1 of the employee's grade on the General Schedule; or

(c) The retained rate of pay under Part 536 of this chapter or 5 CFR 359.705, where applicable, exclusive of additional pay of any kind.

Special law enforcement adjusted rate of pay means an employee's scheduled annual rate of pay multiplied by the factor listed in § 531.302(a) of this part for the special pay adjustment area in which the employee's official duty station is located, subject to the limitation described in § 531.302 (b) or (c) of this part, if applicable.

Special pay adjustment area means any of the following Consolidated Metropolitan Statistical Areas (CMSA's) or Metropolitan Statistical Areas (MSA's), as defined by the Office of Management and Budget (OMB):

(a) Boston-Lawrence-Salem, MA–NH;

(b) Chicago-Gary-Lake County, IL–IN–WI;

(c) Los Angeles-Anaheim-Riverside, CA;

(d) New York-Northern New Jersey-Long Island, NY–NJ–CT;

(e) Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD;

(f) San Francisco-Oakland-San Jose, CA;

(g) San Diego, CA;

(h) Washington, DC–MD–VA.

§ 531.302 Determining special law enforcement adjusted rates of pay.

(a) To determine the special law enforcement adjusted rate of pay, the scheduled annual rate of pay for a law enforcement officer whose official duty station is in one of the special pay adjustment areas listed below shall be multiplied by the factor shown for that area:

Special pay adjustment area	Factor
Boston-Lawrence-Salem, MA–NH	1.16
Chicago-Gary-Lake County, IL–IN–WI	1.04
Los Angeles-Anaheim-Riverside, CA	1.16
New York-Northern New Jersey-Long Island, NY–NJ–CT	1.16
Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD	1.04
San Francisco-Oakland-San Jose, CA	1.16
San Diego, CA	1.08
Washington, DC–MD–VA	1.04

(b) Except as provided in paragraph (c) of this section, the special law enforcement adjusted rate of pay may not exceed the rate of basic pay payable for level IV of the Executive Schedule.

(c) The special law enforcement adjusted rate of pay for an employee in a position described in 5 U.S.C. 5304(h)(1)(A)–(E), including members of the Senior Executive Service, may not exceed the rate of basic pay payable for level III of the Executive Schedule.

§ 531.303 Computation of hourly, daily, weekly, and biweekly adjusted rates of pay.

When it is necessary to convert the special law enforcement adjusted rate of pay to an hourly, daily, weekly, or biweekly rate, the following methods apply:

(a) To derive an hourly rate, divide the adjusted annual rate of pay by 2,087 and round to the nearest cent, counting one-half cent and over as a whole cent;

(b) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the employee's basic daily tour of duty;

(c) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

§ 531.304 Administration of special law enforcement adjusted rates of pay.

(a) A law enforcement officer shall receive the greater of—

(1) The special law enforcement adjusted rate of pay;

(2) The "adjusted annual rate of pay" under subpart A of this part (Interim Geographic Adjustments) for the employee's grade or pay level and step (or relative position in the rate range), if applicable; or

(3) Any applicable special salary rate established under 5 U.S.C. 5305 for the employee's grade and step (or relative position in the rate range).

(b) A special law enforcement adjusted rate of pay is considered basic pay for purposes of computing—

(1) Retirement deductions and benefits under parts 831, 841, 842, 843, and 844 of this chapter;

(2) Life insurance premiums and benefits under parts 870, 871, 872, and 873 of this chapter;

(3) Premium pay under subparts A and I of part 550 of this chapter (including the computation of limitations on premium pay under 5 U.S.C. 5547, overtime pay under 5 U.S.C. 5542(a), and compensatory time off under 5 U.S.C. 5543);

(4) Severance pay under subpart G of part 550 of this chapter; and

(5) Advances in pay under subpart B of part 550 of this chapter.

(c) When an employee's official duty station is changed form a location not in a special pay adjustment area to a location in a special pay adjustment area, payment of the special law enforcement adjusted rate of pay begins on the effective date of the change in official duty station.

(d) A special law enforcement adjusted rate of pay is paid only for those hours for which a law enforcement officer is in a pay status.

(e) A special law enforcement adjusted rate of pay shall be adjusted as of the effective date of any change in the applicable scheduled annual rate of pay.

(f) Except as provided in paragraph (g) of this section, entitlement to a special law enforcement adjusted rate of pay under this subpart terminates on the date—

(1) An employee's official duty station is no longer located in a special pay adjustment area;

(2) An employee moves to a position not covered by this subpart;

(3) An employee separates from Federal service;

(4) An employee's "adjusted annual rate of pay" under Subpart A of this part exceeds his or her special law enforcement adjusted rate of pay; or

(5) An employee's special salary rate under 5 U.S.C. 5305 exceeds his or her special law enforcement adjusted rate of pay.

(g) In the event of a change in the geographic area covered by a CMSA or MSA described in § 531.301 of this chapter, the effective date of a change in an employee's entitlement to a special law enforcement adjusted rate of pay under this subpart shall be the first day of the first pay period beginning on or

after the date on which a change in the definition of the CMSA or MSA is made effective.

(h) Payment of, or an increase in, a special law enforcement adjusted rate of pay is not an equivalent increase in pay within the meaning of 5 U.S.C. 5335.

(i) A special law enforcement adjusted rate of pay is included in an employee's "total remuneration," as defined in § 551.511(b) of this chapter, and "straight time rate of pay," as defined in § 551.512(b) of this chapter, for the purpose of computations under the Fair Labor Standards Act of 1938, as amended.

(j) Termination of a special law enforcement adjusted rate of pay under paragraph (f) of this section is not an adverse action for the purpose of subpart D of part 752 of this chapter.
§ 531.305 Reports.

The Office of Personnel Management may require agencies to report pertinent information concerning the administration of payments under this subpart.

§ 531.306 Effect of special pay adjustments for law enforcement officers on retention payments under FBI demonstration project.

As required by section 406 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), a retention payment payable to an employee of the New York Field Division of the Federal Bureau of Investigation under section 601(a)(2) of Public Law 100–453, as amended, shall be reduced by the amount of any special pay adjustment for law enforcement officers payable to that employee under this subpart. For the purpose of applying this section, the amount of the special pay adjustment for law enforcement officers shall be determined by subtracting the employee's scheduled annual rate of pay, plus the amount of any interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), as determined under § 531.105 of this part, from his or her special law enforcement adjusted rate of pay.

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

5. The authority citation for subpart A of part 550 is revised to read as follows:

Authority: 5 U.S.C. 5548 and 6101(c); sec. 302, 404, and 411 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462, 1466, and 1469, respectively; E.O. 12748.

6. In § 550.101, paragraph (b)(9) is revised to read as follows:

§ 550.101 Coverage and exemptions.

* * * * *

(b) *Employees to whom this subpart does not apply.*

* * * * *

(9) A member of the United States Park Police or the United States Secret Service Uniformed Division, except for the purpose of night pay under §§ 550.121 and 550.122, pay for holiday work under §§ 550.131 and 550.132, and pay for Sunday work under §§ 550.171 and 550.172 of this subpart;

* * * * *

7. In § 550.103, paragraph (j) is revised to read as follows:

§ 550.103 Definitions.

* * * * *

(j) *Rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee, including any applicable interim geographic adjustment or special pay adjustment for law enforcement officers under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively, or locality-based comparability payment under 5 U.S.C. 5304, before any deductions and exclusive of additional pay of any other kind.

* * * * *

8. In § 550.107, paragraph (a) is revised to read as follows:

§ 550.107 Special maximum earnings limitation for law enforcement officers.

* * * * *

(a) 150 percent of the minimum rate for GS–15, including a locality-based comparability payment under 5 U.S.C. 5304 or an interim geographic adjustment or special law enforcement adjustment under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively, and any special salary rate established under 5 U.S.C. 5305, rounded to the nearest whole cent, counting one-half cent and over as a whole cent; or

* * * * *

9. In § 550.111, paragraph (d)(2) is revised to read as follows:

§ 550.111 Authorization of overtime pay.

* * * * *

(d) * * *

(2) Performed by an employee, when the employee's basic pay exceeds the minimum rate for GS–10 (including any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) or when the employee is engaged in professional or technical, engineering or scientific activities. For purposes of this section and section 5542(a) of title 5, United States Code, an employee is engaged in professional or technical engineering or scientific activities when he or she is assigned to perform the duties of a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or engineering or architecture.

* * * * *

10. In § 550.113, paragraph (a) is revised to read as follows:

§ 550.113 Computation of overtime pay.

(a) For each employee whose rate of basic pay does not exceed the minimum rate for GS–10 (including any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law), the overtime hourly rate is 1½ times his or her hourly rate of basic pay.

* * * * *

11. In § 550.114, paragraph (c) is revised to read as follows:

§ 550.114 Compensatory time off.

* * * * *

(c) The head of an agency may provide that an employee whose rate of basic pay exceeds the maximum rate for GS–10 (including any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) shall be compensated for irregular or occasional overtime work with an equivalent amount of compensatory time off from the

employee's tour of duty instead of payment under § 550.113 of this part.

* * * * *

12. § 550.151 is revised to read as follows:

§ 550.151 Authorization of premium pay on an annual basis.

An agency may pay premium pay on an annual basis, instead of other premium pay prescribed in this subpart (except premium pay for regular overtime work, and work at night, on Sundays, and on holidays), to an employee in a position in which the hours of duty cannot be controlled administratively and which requires substantial amounts of irregular or occasional overtime work, with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty. Premium pay under this section is determined as an appropriate percentage, not less than 10 percent nor more than 25 percent, of the employee's rate of basic pay (including any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law).

13. In § 550.154, paragraph (a) introductory text is revised to read as follows:

§ 550.154 Rates of premium pay payable under § 550.151.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.151 to an employee who meets the requirements of that section, at one of the following percentages of the employee's rate of basic pay (including any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law):

* * * * *

Subpart B—Advances in Pay

14. The authority citation for Subpart B is revised to read as follows:

Authority: 5 U.S.C. 5524a; secs. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748.

15. In § 550.202, the definition of "rate of basic pay" is revised to read as follows:

§ 550.202 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including annual premium pay for standby duty under 5 U.S.C. 5545(1); night differential for prevailing rate employees under 5 U.S.C. 5343(f); a special rate established under 5 U.S.C. 5305, § 532.231 of this subchapter, or other legal authority; and locality-based comparability payments under 5 U.S.C. 5304; or any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; but not including additional pay of any other kind.

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

16. The authority citation for part 575 is revised to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; sec. 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1466; E.O. 12748.

17. In § 575.103, the definition of "rate of basic pay" is revised to read as follows:

§ 575.103 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304; or interim geographic adjustments or special pay adjustments for law enforcement officers under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively.

* * * * *

18. In § 575.203, the definition of "rate of basic pay" is revised to read as follows:

§ 575.203 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is being relocated, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304; or interim geographic adjustments or special pay adjustments for law enforcement officers under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively.

* * * * *

19. In § 575.303, the definition of "rate of basic pay" is revised to read as follows:

§ 575.303 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304; or interim geographic adjustments or special pay adjustments for law enforcement officers under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively.

* * * * *

20. In § 575.403, the definition of "rate of basic pay" is revised to read as follows:

§ 575.403 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304; or interim geographic adjustments or special pay adjustments for law enforcement officers under section 302 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively.

* * * * *

21. In § 575.405, paragraph (c)(2) is revised to read as follows:

§ 575.405 Calculation and payment of supervisory differentials.

* * * * *

(c) * * *

(2) A locality-based comparability payment under 5 U.S.C. 5304; or interim geographic adjustment or special pay adjustment for law enforcement officers under section 302 or 404 of the Federal

Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively;

* * * * *

[FR Doc. 92–1476 Filed 1–21–92; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 729]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from January 17 through January 23, 1992. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. Regulation was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 729 (7 CFR Part 907) is effective for the period from January 17 through January 23, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1754.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number a growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 79 percent of the total production in 1990–91. District 2 is located in the southern coastal area of California and represented almost 18 percent of 1990–91 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 3 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's revised estimate of 1991–92 production is 64,600 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 32,895 cars during the 1990–91 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee has estimated that about 68 percent of the 1991–92 crop of 64,600 cars will be utilized in fresh domestic channels (43,650 cars), with the remainder being exported fresh (14 percent), processed (16 percent), or designated for other uses (2 percent). This compares with the 1990–91 total of 16,675 cars shipped to fresh domestic markets, about 51 percent of that year's crop. In comparison to other seasons, 1990–91 production was low because of a devastating freeze that occurred during December 1990.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance producer revenue. Prices for navel oranges tend to be relatively inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1991–92 season on June 25, 1991. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 24, 1991, in Visalia, California; and District 2 and 3 on October 1, 1991, in Ontario, California. The Committee subsequently revised its marketing policy at a meeting on October 15, 1991. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season.

This marketing policy is available from the Committee or Mr. Nissen. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on January 14, 1992, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with 7 members voting in favor, 2 opposing, and 2 abstaining, that 1,600,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1991–92 marketing policy. The recommended amount of 1,600,000 cartons compares to the 1,500,000 cartons specified in the Committee's shipping schedule. Of the 1,600,000 cartons, 81.6 percent or 1,305,600 cartons are allotted for District 1, 15.5 percent or 248,000 cartons are allotted for District 2, and 2.9 percent or 46,400 cartons are allotted for District 4. Handlers in District 3 will not be regulated as they are not shipping a sufficient quantity of navel oranges to warrant volume regulation at this point in the season.

During the week ending on January 9, 1992, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,097,000 cartons compared with 409,000 cartons shipped during the week ending on January 10, 1991. Export shipments totaled 163,000 cartons compared with 134,000 cartons shipped during the week ending on January 10, 1991. Processing and other uses accounted for 161,000 cartons compared with 821,000 cartons shipped during the week ending on January 10, 1991.

Fresh domestic shipments to date this season total 10,808,000 cartons compared with 13,506,000 cartons shipped by this time last season. Export shipments total 1,623,000 cartons compared with 1,698,000 cartons shipped by this time last season. Processing and other use shipments total 2,221,000 cartons compared with 4,138,000 cartons shipped by this time last season.

For the week ending January 9, 1992, regulated shipments of navel oranges to the fresh domestic market were 1,031,000 cartons on an adjusted allotment of 954,000 cartons which resulted in net overshipments of 77,000 cartons. Regulated general maturity shipments for the current week (January 10 through January 16, 1992) are estimated at 1,210,000 cartons on an adjusted allotment of 1,233,000 cartons. Thus, undershipments of 23,000 cartons could be carried forward into the week ending on January 23, 1992.

The average f.o.b. shipping point price for the week ending on January 9, 1992, was $9.47 per carton based on a reported sales volume of 800,000 cartons. The season average f.o.b. shipping point price to date is $10.21 per carton. The average f.o.b. shipping point prices for the week ending on January 10, 1991, was $15.62 per carton; the season average f.o.b. shipping point price at this time last year was $9.94.

Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. It was reported that poor weather conditions have hampered harvesting. Two Committee members commented that the weather has had a positive effect on prices. Several Committee members commented that they believe demand is improving. Two Committee members favored open movement at this time, while the majority of Committee members favored the issuance of general maturity allotment.

According to the National Agricultural Statistics Service, the 1990–91 season average fresh equivalent on-tree price for California-Arizona navel oranges was $7.75 per carton, 119 percent of the season average parity equivalent price of $6.52 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average fresh on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from January 17 through January 23, 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to affectuate the declared policy of the Act.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the **Federal Register** (56 FR 49432). The Department is currently in the process of analyzing comments received in response to this proposal and, if warranted, may finalize that action this season. However, issuance of this final rule implementing volume regulation for the regulatory week ending on January 23, 1992, does not constitute a final decision on that proposal.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until January 15, 1992, and this action needs to be effective for the regulatory week which begins on January 17, 1992. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

1. The authority citation 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1029 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

907.1029 Navel orange regulation 729.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from January 17 through January 23, 1992, is established as follows:

(a) District 1: 1,305,600 cartons;
(b) District 2: 248,000 cartons;
(c) District 3: unlimited cartons;
(d) District 4: 46,400 cartons.

Dated: January 16, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-1548 Filed 1-17-92; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

7 CFR Part 800

Aflatoxin Testing Service

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is revising the regulations under the United States Grain Standards Act (USGSA) as amended (7 U.S.C. 71 *et seq.*), to require, prior to shipment, all corn exported from the United States be tested for aflatoxin unless the contract stipulates that testing is not required. FGIS is also amending the regulations to provide aflatoxin testing service for all grains, including corn, under the authority of the USGSA.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: George Wollam, Federal Grain Inspection Service, USDA, room 0623 South Building, P.O. Box 96454, Washington, DC, 20090-96454, telephone (202) 720-0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this rule will not have a significant economic impact on substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform those services do not meet the requirement for small entities. Aflatoxin text services will be applied equally to all entities.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) and assigned OMB number 0580-0013.

Background

The Grain Quality Incentives Act of 1990 (Pub. L. No. 101-624; (section 2007), GQIA) amended section 5 of the USGSA (7 U.S.C. 77) to require that all corn exported from the United States be tested for aflatoxin, unless the contract for export stipulates that such testing is not required. Specifically, the amendment states,

> The Administrator is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted.

The Conference Report covering the GQIA (H.R. Conf. Rep. No. 916, 101st Cong., 2nd Sess. 595(1990)) states,

> * * * buyer and seller may agree not to have corn tested for aflatoxin. However, if a buyer and seller desire an official USDA test and certification for aflatoxin, such test must be conducted by USDA. This does not preclude buyer and seller from utilizing private (unofficial) testing laboratories in lieu of USDA official testing.

On August 6, 1991, FGIS proposed in the **Federal Register** (56 FR 37302) to revise the regulations under the USGSA to implement the new aflatoxin testing requirements in section 5 of the USGSA. Specifically, FGIS proposed to revise sections 800.15, 800.16, and 800.162 to require aflatoxin testing service for all corn exported from the United States. In addition, FGIS proposed to begin providing aflatoxin testing services on all grains, including corn, under the authority of the USGSA in conjunction with implementing the required testing of export corn. Testing of grains, other than corn, for aflatoxin contamination will be provided upon the request of an applicant.

On August 16, 1991, FGIS published a correction docket in the **Federal Register** (56 FR 40812) correcting errors in proposed § 800.15(b)(1)(ii).

Providing aflatoxin testing service under the authority of the USGSA would increase the availability of official aflatoxin testing service to the grain industry and facilitate the implementation of the required testing of export corn.

During the 30 day comment period ending September 5, 1991, FGIS received a total of 14 comments from various segments of the grain industry including producer associations, grain trade associations, handlers, foreign organizations, and corn processors. In general, six commentors supported the proposed action, five opposed the proposed action, and three did not specifically address the changes proposed.

Aflatoxin Testing of Corn by FGIS

The six commentors supporting the proposal indicated that the proposed action would promote the use of standard aflatoxin testing methods and expand the availability of official aflatoxin testing service.

The five commentors opposing the proposal expressed concern that the proposed actions were not consistent with the law, as passed, nor with the intent of the law, as discussed by the conference committee. These commentors agreed that all corn exported from the United States must be tested for aflatoxin unless the buyer and seller agree not to have the corn tested. However, they disagree that buyer and seller must agree on unofficial testing in lieu of USDA testing.

FGIS believes that such action is necessary to fulfill its responsibilities as mandated by Congress. The GQIA of 1990 amended the USGSA to authorize and direct the FGIS Administrator to establish aflatoxin testing services for export corn. The amendment also establishes FGIS as the primary testing agency, since unofficial testing is permitted "in lieu of USDA official testing."

Currently, there are many export contracts which permit independent laboratory testing as an alternative to FGIS testing. Since it is already common practice to permit independent laboratory testing, FGIS does not believe the proposal to require agreement between the buyer and seller is unreasonable or impractical. In fact, such action assures that the buyer and the seller are aware of the requirements for testing. Consequently, FGIS shall provide aflatoxin testing services for export corn unless the buyer and seller agree to have it tested by an entity other than FGIS.

Testing Grains for Aflatoxin Under the USGSA

One commentor opposed the proposed action to provide aflatoxin testing services for grain under the authority of the USGSA. This commentor recommended that aflatoxin testing service remain under the Agricultural Marketing Act of 1946 (AMA).

The authority to test grain for which a standard has been established is included under the USGSA. Therefore, providing official aflatoxin testing service for all grains, including corn, under the authority of the USGSA is logical and justifiable. Additionally, this transfer would increase the availability of official testing service to the grain industry.

The commentor also indicated that transferring of testing authority from the AMA to the USGSA will significantly increase costs to exporters. FGIS charges $29.20 per hour with $7.50 charged per test under AMA and $41.90 per hour under USGSA.

FGIS is required to recover, as nearly as practicable, the cost associated with performing official services. FGIS acknowledges the higher hourly fee under USGSA, as opposed to the hourly fees provided under AMA. However, FGIS believes the unit cost is lower under USGSA.

ESTIMATED COST COMPARISON PER TEST

[Non-contract, regular work-day]

No. of samples tested per hour	Cost per test	
	Under USGSA	Under AMA *
1	41.90	36.70
2	20.95	22.10
3	13.97	17.23

* The estimated cost per test under AMA includes $7.50 per test to recover test kit cost.

The table above provides an estimated cost per aflatoxin test under USGSA compared to unit cost under AMA. This table shows that as the number of tests per hour increase, the cost per test decreases under both Acts. However, when two or more aflatoxin tests per hour were performed, the estimated cost per test is lower than USGSA.

Final Action

Based on the comments received and other available information, FGIS has decided to implement the changes to the regulations as appears in this final rule.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Conflict of interests, Exports, Freedom of Information, Grains, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR Part 800 is amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for part 800 continues to read as follows:

Authority: Public Law 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*).

2. Section 800.15 paragraph (b)(1) is revised to read as follows:

§ 800.15 Services.

* * * * *

(b) *Responsibilities for complying with the official inspection, aflatoxin testing, and weighing requirements—*

(1) *Export grain.* Exporters are responsible for (i) complying with all inspection, Class X weighing, and other certification provisions and requirements of section 5(a)(1) of the Act and the regulations applicable to export grain and (ii) having all corn, as defined in § 810.401, exported from the United States tested for aflatoxin contamination unless the buyer and seller agree not to have the corn tested. The Service shall perform the aflatoxin testing service unless the buyer and seller agree to have the corn tested by an entity other than the Service.

* * * * *

3. Section 800.16 paragraph (a) is revised to read as follows:

§ 800.16 Certification requirements for export grain.

(a) *General.* Official Export Grain Inspection and Weight Certificates, Official Export Grain Inspection Certificates, and Official Export Grain Weight Certificates for bulk or sacked grain shall be issued according to § 800.162 for export grain loaded by an export elevator. Only these types of export certificates showing the official grade, official aflatoxin test results if required under the Act and the regulations, and/or the Class X weight of the grain shall be considered to be in compliance with inspection and weighing requirements under the Act for export grain.

* * * * *

4. Section 800.162 paragraph (d) is added to read as follows:

§ 800.162 Certification of grade; special requirements.

* * * * *

(d) *Aflatoxin Test for Corn.* Official corn export certificates shall show, in addition to the requirements of paragraphs (a), (b), and (c) of this section, the official aflatoxin test results if required under § 800.15(b).

Dated: December 27, 1991.

John C. Foltz,

Administrator

[FR Doc. 92–1398 Filed 1–21–92; 8:45 am]

BILLING CODE 3410-EN-M

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 88–173]

Communicable Diseases in Horses, Asses, Ponies, Mules, and Zebras

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning communicable diseases in horses, asses, ponies, mules, and zebras by removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing certain references to "Veterinary Services" and replacing them with references to the "Animal and Plant Health Inspection Service." These changes are warranted so the regulations will accurately reflect that the Administrator of the agency holds the primary authority and responsibility for various decisions under the regulations.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Manual A. Thomas, Jr., Senior Staff Veterinarian, Equine Diseases Staff, VS, APHIS, USDA, room 769, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301–436–6954.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 75 (referred to below as the regulations) contain restrictions on the interstate movement of horses, asses, ponies, mules, and zebras because of certain communicable diseases. Prior to the effective date of this document, these regulations indicated that the Deputy Administrator, Veterinary Services, of the Animal and Plant Health Inspection Services (APHIS) was the official responsible for various decisions under these regulations. We are revising 9 CFR part 75 to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are making similar revisions

in all other APHIS regulations. These revisions will be published in separate **Federal Register** documents.

We are removing all references to "Deputy Administrator" and replacing them with references to "Administrator," and removing references to "Veterinary Services" and replacing them with references to "Animal and Plant Health Inspection Service (APHIS)." We are also adding definitions of "Administrator," "Animal and Plant Health Inspection Service," and "APHIS representative" and deleting the definitions of "Deputy Administrator" and "Veterinary Services representative." Further, we are revising the definitions of "Accredited veterinarian" and "Veterinarian in Charge" to make them more consistent with the definitions in other parts of 9 CFR, and are revising APHIS mailing addresses to reflect the current addresses.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this section is not a rule as defined by Public Law 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

These programs/activities under 9 CFR part 75 are listed in the Catalog of Federal Domestic Assistance under No. 10.025 and are subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 75

Animal diseases, Horses, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 75 as follows:

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

1. The authority citation for part 75 continues to read as follows:

Authority: 21 U.S.C. 111–113m 115, 117, 120, 121, 123–126, 134–134h; 7 CFR 2.17, 2.51, and 371.2(d).

§ 75.1 [Amended]

2. In § 75.1, in the heading, remove the words "Veterinary Services" and add the words "Animal and Plant Health Inspection Service (APHIS)" in their place; and in the first sentence, remove the words "Veterinary Services" and add the word "APHIS" in their place.

§ 75.2 [Amended]

3. In § 75.2, in the heading, remove the words "Veterinary Services" and add the words "Animal and Plant Health Inspection Service (APHIS)" in their place; and in the text, remove the words "a Veterinary Services" and add the words "an APHIS" in their place.

4. In § 75.4, paragraph (a), remove the definitions of "Deputy Administrator" and "Veterinary Services representative"; revise the heading and the definitions of "Accredited veterinarian" and "Veterinarian in Charge"; and add definitions of "Administrator," "Animal and Plant Health Inspection Service" and "APHIS representative", in alphabetical order, to read as follows:

§ 75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities, research facilities, and stockyards.

(a) * * *

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

APHIS representative. An individual employed by APHIS who is authorized to perform the functions involved.

* * * * *

Veterinarian in Charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the animal health activities of APHIS in the State concerned.

* * * * *

§ 75.4 [Amended]

5. In § 75.4, paragraph (a), in the definition of "Certificate" remove the words "Veterinary Services" and add the word "APHIS" in their place.

§ 75.4 [Amended]

6. In § 75.4, paragraph (a), in the definition of "Officially identified" remove the words "a Veterinary Services" and add the words "an APHIS" in their place.

§ 75.4 [Amended]

7. In § 75.4, in the following paragraphs, remove the word "Deputy" wherever it appears:

a. § 75.4(a), definition of "Official test";

b. § 75.4(c)(1);

c. § 75.4(c)(2) both times it appears;

d. § 75.4(d) introductory text;

e. § 75.4(d)(2) both times it appears;

f. § 75.4(d)(3); and

g. § 75.4(d)(4) both times it appears.

§ 75.4 [Amended]

8. In § 75.4, paragraphs (a), footnote 1; (c)(1), footnote 2; and (c)(2), footnote 3, remove the words "Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building," and add, in their place, the words "Administrator, c/o SGEPDS, VS, APHIS, room 769, Federal Building, 6505 Belcrest Road,".

9. In § 75.5, the definition of "Accredited Veterinarian" is revised to read as follows:

§ 75.5 Definitions.

Accredited Veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

* * * * *

Done at Washington, DC, this 15th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-1521 Filed 1-21-92; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 11

RIN 3150-AE03

DOE-L or DOE-Q Reinvestigation Program for NRC-R Access Authorization Renewal Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow an exception to NRC-R access authorization renewal requirements. The final rule allows acceptance of the DOE-L or DOE-Q Reinvestigation Program for NRC-R access authorization renewal requirements and reduces and clarifies for the licensee the documentation required by the NRC when an exception is used. The final rule is intended to reduce administrative and investigative costs to affected licensees and administrative costs to the Federal government. Affected licensees are those who use or possess a formula quantity of special nuclear material.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Rocio Castaneira, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2392.

SUPPLEMENTARY INFORMATION:

Background

In 1985, 10 CFR part 11, "Criteria and Procedures for Determining Eligibility for Access to or Control over Special Nuclear Material" was amended in § 11.15 to allow, among other things, an exception in the access authorization renewal requirements for NRC-U renewals. These requirements apply to licensees who use or possess a formula quantity of special nuclear material. An NRC-U special nuclear material access authorization is required for—

(1) All positions in the licensee's security force;

(2) Management positions with the authority to direct the actions of members of the security force or alter security procedures, direct routine movements of special nuclear material, or direct the routine status of vital equipment;

(3) All jobs which require unescorted access within onsite alarm stations; and

(4) All jobs which require unescorted access to special nuclear material or within vital areas.

The NRC provided an exception in § 11.15 that allowed individuals subject to the Department of Energy's (DOE) Selective Reinvestigation Program for DOE-Q access authorization to use the DOE reinvestigation for NRC-U renewal requirements. The investigative basis for the DOE-Q is comparable to the investigative basis of the NRC-U. Allowing this exception for NRC-U renewal requirements reduced administrative and investigative costs to the licensees and avoided duplicate investigations of an individual.

However, in 1985, the DOE-L Selective Reinvestigation Program did not meet NRC-R renewal requirements. Therefore, no provisions were made for allowing the use of the DOE-L Selective Reinvestigation Program for NRC-R renewal requirements. An NRC-R special nuclear material access authorization is required for an individual whose job requires unescorted access within protected areas but does not fall within any of the categories that require an NRC-U access authorization.

Subsequently, DOE implemented an "L" Reinvestigation Program which meets NRC-R renewal requirements. Accordingly, the NRC has determined that it would be appropriate to amend Part 11 to include the DOE-L program. The NRC has also determined that allowing the DOE-Q Reinvestigation Program for NRC-R renewal requirements would be appropriate. The NRC has found that many individuals that have NRC-R access authorizations also have DOE-Q clearances and are thereby subject to reinvestigation by DOE. Additionally, the title of the DOE program is changed to reflect its current title, i.e., "DOE Reinvestigation Program."

Public Comments

On September 30, 1991, the proposed rule was published for comment (56 FR 49435). The comment period expired on October 30, 1991. One comment was received during the comment period. The commenter agreed that amending the rule would be appropriate to allow the use of the DOE-Q or DOE-L Reinvestigation Program for NRC-R renewal requirements. However, the commenter objected to the documentation required to be submitted to the NRC when the exceptions allowed were used.

Specifically, the proposed rule would have required the licensee to submit a duplicate security clearance package to the NRC when submitting the individual's security clearance package to the DOE for a reinvestigation. The commenter recommended that the licensee provide the NRC with critical identifying data on the individual when submitting that individual's security clearance package to the DOE for reinvestigation. If a need arises, the NRC can obtain copies of the security clearance package from the DOE. This comment has been adopted for the NRC-R renewal requirements and expanded to the NRC-U renewal requirements, and the final rule has been revised to incorporate this comment. Additionally, in order to conform other regulatory text with the planned changes, the introductory text to paragraph (c)(1) has been revised.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0062.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, room LL6, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Ms. Rocio Castaneira, Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2392.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final rule does not have a significant economic impact upon a substantial number of small entities. The final rule affects three nuclear fuel facility licensees. Because these licensees are not classified as small entities as defined by the NRC's size standards (November 6, 1991; 56 FR 56671), the Commission finds that this final rule does not have a significant economic

impact upon a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109 does not apply to this final rule, and therefore, that a backfit analysis is not required because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 11

Hazardous materials—transportation, Investigations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 11.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

1. The authority citation for part 11 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

2. In § 11.15, the introductory text of paragraph (c)(1) is revised, paragraph (c)(2) is revised, paragraph (c)(3) is redesignated as paragraph (c)(5) and revised, and new paragraphs (c)(3) and (c)(4) are added to read as follows:

§ 11.15 Application for special nuclear material access authorization

* * * * *

(c)(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, NRC–U and NRC–R special nuclear material access authorizations must expire 5 years from the date of issuance. If continued NRC–U and NRC–R special nuclear material access authorization is required, an application for renewal must be submitted at least 120 days prior to its expiration date. Failure to make a timely application will result in an expiration of special nuclear material access authorization. Special nuclear material access authorization for which a timely application for renewal has been made may be continued beyond the expiration date pending final action on the application. An application for renewal must include:

* * * * *

(2) An exception to the NRC–U special nuclear material access authorization expiration date and the time for submission of NRC–U special nuclear material access authorization renewal applications is provided for those individuals who have a current and active DOE–Q access authorization and who are subject to DOE Reinvestigation Program requirements. For these individuals, the time for submission of NRC–U special nuclear material access authorization renewal applications may coincide with the time for submission to DOE of the SF–86 pursuant to DOE Reinvestigation Program requirements. The licensee may submit to NRC, concurrent with its reinvestigation submission to DOE, a completed NRC Form 237, "Request for Access Authorization," containing the individual's full name, to include social security number, date of birth, reinvestigation submittal date to DOE, type of request, i.e., renewal, and the information required by paragraph (c)(1)(i) of this section, as the supporting documentation for an NRC–U special nuclear material access authorization renewal application. Any NRC–U special nuclear material access authorization issued in response to a renewal application submitted pursuant to this paragraph will not expire until the date set by DOE for the next reinvestigation of the individual pursuant to DOE's Reinvestigation Program (generally every five years). NRC–U special nuclear material access authorizations for which timely applications for renewal have been made may be continued beyond the expiration date, pending final action on the application.

(3) An exception to the NRC–R special nuclear material access authorization expiration date and the time for submission of NRC–R special nuclear material access authorization renewal applications is provided for those individuals who have a current and active DOE–L or DOE–Q access authorization and who are subject to DOE Reinvestigation Program requirements. For these individuals, the time for submission of NRC–R special nuclear material access authorization renewal applications may coincide with the time for submission to DOE of the SF–86 pursuant to DOE Reinvestigation Program requirements. The licensee may submit to NRC, concurrent with its reinvestigation submission to DOE, a completed NRC Form 237, "Request for Access Authorization," containing the individual's full name, to include social security number, date of birth, reinvestigation submittal date to DOE, and type of request, i.e., renewal, as the supporting documentation for an NRC–R special nuclear material access authorization renewal application. Any NRC–R special nuclear material access authorization issued in response to a renewal application submitted pursuant to this paragraph will not expire until the date set by DOE for the next reinvestigation of the individual pursuant to DOE's Reinvestigation Program (generally every five years). NRC–R special nuclear material access authorizations for which timely applications for renewal have been made may be continued beyond the expiration date, pending final action on the application.

(4) The licensee may use either of the exceptions as specified in paragraphs (c)(2) or (c)(3) of this section for an individual who is subject to an NRC–U or NRC–R reinvestigation, even if less than five years has passed since the date of the issuance or renewal of the NRC–U or NRC–R access authorization. Failure to file a renewal application concurrent with the time for submission of an individual's SF–86 to DOE pursuant to DOE Reinvestigation Program requirements will result in the expiration of the individual's NRC special nuclear material access authorization.

(5) Notwithstanding the provisions of paragraphs (c)(2), (c)(3), or (c)(4) of this section, the period of time for the initial and each subsequent NRC–U or NRC–R renewal application to NRC may not exceed 7 years. Any individual who is subject to the DOE Reinvestigation Program requirements but, for administrative or other reasons, does not submit reinvestigation forms to DOE within 7 years of the previous submission, shall submit a renewal application to NRC using the forms prescribed in paragraph (c)(1) of this section before the expiration of the 7 year period. Failure to request an NRC–U or NRC–R renewal for any individual within the 7 year period will result in termination of the individual's NRC–U or NRC–R access authorization.

* * * * *

Dated at Rockville, Maryland this 9th day of January, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92–1502 Filed 1–21–92; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Regulations; Restatement to Accrual Method of Accounting

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: The Small Business Administration (SBA) hereby amends its size regulations to provide that small business concerns whose size status is determined pursuant to annual receipts must restate their books of account to the accrual method of accounting only with respect to fiscal years beginning on or after January 1, 1990.

DATES: Effective date: January 1, 1990. Comments must be submitted on or before February 21, 1992.

ADDRESSES: Written comments should be addressed to David R. Kohler, Associate General Counsel for General Law, Office of General Counsel, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John W. Klein, Chief Counsel for Special Programs, (202) 205–6645.

SUPPLEMENTARY INFORMATION: On December 21, 1989, the Small Business Administration (SBA) published a complete revision governing the procedural rules relative to SBA's size determination program, 54 FR 52634. The definition of the term "annual receipts" was amended as part of this revision. The revised rule required, for the first time, that revenues be measured as entered on the regular books of account of the concern or as shown on the concern's Federal Income Tax return, "*Provided That * * * revenue shown on the regular books of account or the Federal Income Tax return on a basis other than accrual is restated to show revenue on an accrual basis.*" 13 CFR 121.402(d)(1). This requirement for restatement of revenue to reflect an accrual basis of accounting was a change from earlier regulations which permitted revenues to be measured as entered on the regular books of account whether on a cash, accrual or other basis. The supplementary information to the rule that appeared in the **Federal Register** noted that the effective date of the revised regulations was to be January 1, 1990.

SBA received numerous inquiries concerning whether revenues for fiscal years begun prior to January 1, 1990 had to be restated on an accrual basis under the new regulation. SBA's response was that the revised regulations were not effective until January 1, 1990 and, as such, this requirement was not intended to apply to fiscal years begun prior to January 1, 1990. Although SBA believed that this response was consistent with the regulation, SBA concluded it should resolve any ambiguity by issuing a formal statement of policy. This resulted in the publication of Size Policy Statement No. 2 in the **Federal Register** on November 19, 1990, 55 FR 48106.

SBA Size Policy Statement No. 2 was not intended to create a new substantive regulation, but merely to provide an interpretation of the existing regulation. However, in two separate size appeals decisions, SBA's Office of Hearings and Appeals (OHA) held that SBA Size Policy Statement No. 2 could be applied only to size self-certifications occurring on or after its publication date of November 19, 1990. Size Appeal of Geofon, Inc., No. 3429 (March 4, 1991); Size Appeals of Research Analysis and Maintenance, Inc. and Stewart Associates, Inc., No. 3445 (March 28, 1991); Appellant petition for reconsideration denied, No. 3486 (June 20, 1991); SBA petition for reconsideration denied, No. 3489 (July 3, 1991).

This interim final rule would substantively amend SBA's size regulations to now explicitly apply the requirement for restatement of receipts to the accrual method of accounting only as to fiscal years beginning on or after January 1, 1990. The revision would apply to all size self-certifications made after the effective date of the interim final rule and to all size determinations begun or completed after that date. In those cases, a firm may elect to show revenues for fiscal years beginning prior to January 1, 1990 on either a cash or an accrual basis of accounting.

As indicated, OHA's rulings uphold the interpretation given the size regulations by SBA Size Policy Statement No. 2 for size self-certifications made on or after November 19, 1990. Pursuant to those decisions, SBA has been authorized to determine the size of a concern in accord with the Size Policy Statement for any size self-certification made on or after November 19, 1990. The Size Policy Statement permitted the calculation of receipts on a cash basis as to fiscal years beginning prior to January 1, 1990. Thus, this interim final rule will have no effect on size self-certifications made after November 19, 1990. Additionally, most, if not all, size self-certifications made between January 1, 1990 and November 19, 1990 would have been done in reliance upon SBA's informal advice to the effect that fiscal years beginning prior to January 1, 1990 need not be restated to reflect revenue on an accrual basis. There is the possibility that in a few instances firms relied on their own interpretation of the December 21, 1989 regulation and did restate their revenues for fiscal years commencing earlier than January 1, 1990, before making a size self-certification. The validity of those certifications is not affected in this interim final rule since the rule provides for an election as to those fiscal years. This rule is not intended to invalidate, or affect in any way, size self-certifications or size determinations completed before its publication date in the **Federal Register**. If a size determination has not been completed in connection with a firm that did restate its revenues to the accrual method of accounting, the revision would permit such a firm to elect to show revenues for fiscal years beginning prior to January 1, 1990 on either a cash or an accrual basis of accounting.

In promulgating this interim final rule, the Agency adopts the interpretation given SBA's regulations announced in SBA Size Policy Statement No. 2 and the rationale contained therein. This rule is intended to promote consistency in the way size determinations are made. SBA believes that it would be an anomaly for size certifications made between January 1, 1990 and November 19, 1990 to be treated differently than all other size determinations. This rule is needed to ensure the uniform application of the regulations as intended and should promote stability in the procurement process.

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act (55 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. chap. 35)

SBA certifies that this interim final rule is not a major rule within the meaning of Executive Order 12291 and will not have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The change in the size regulations will affect a very limited number of concerns and procurements. In theory, the change in the size regulations will affect all size certifications made between January 1, 1990 and November 19, 1990. However, because size with respect to those certifications has been, for the most part, already decided in accord with the interpretation set forth in this interim final rule, there should be very little impact on any concerns or Government acquisitions currently being finalized. In addition, this rule does not affect any of

the size standards contained in § 121.601. This rule, in and of itself, would not impose costs upon the businesses which might be affected by it. Because the rule will have no affect on the amount or dollar value of any contract requirement or the number of requirements reserved for the small business set-aside and 8(a) programs, it is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For purpose of the Paperwork Reduction Act, 44 U.S.C. ch. 35, SBA certifies that this rule contains no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Handicapped, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, SBA amends title 13, Code of Federal Regulations (CFR), as set forth below.

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for 13 CFR Part 121 continues to read as follows:

Authority: Sections 3(a) and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632(a), 634(b)(6)), and Pub. L. 100-656, 102 Stat. 3853 (1988).

§ 121.402(d)(1) [Revised]

2. Section 121.402(d)(1) is revised to read as follows:

* * * * *

(d)(1) *Method of determining annual receipts.* Revenue may be taken from the regular books of account of the concern. If the concern so elects, or has not kept regular books of account, or the IRS has found such records to be inadequate and has reconstructed income of the concern, then revenues shown on the Federal Income Tax return of the concern may be used in determining annual receipts. Subject to the exception in paragraph (d)(2) of this section, revenue shown on the regular books of account or the Federal Income Tax return on a basis other than accrual must be restated to show revenue on an accrual basis for all fiscal years beginning on or after January 1, 1990. For purposes of either a self-certification as to size made, or any size determination initiated or completed, subsequent to January 22, 1992, a firm may elect to show revenues for fiscal years beginning prior to January 1, 1990 on either a cash or an accrual basis of accounting. Further, where the completed contract method of determining income has been used, revenue must be restated to a percentage of completion method prior to determining annual receipts.

* * * * *

Dated: December 20, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 92-1458 Filed 1-21-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 103CE, Special Condition 23-ACE-70]

Special Conditions; Beechcraft Model A36 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are being issued to Tradewind Turbines for a Supplemental Type Certification (STC) on the Beechcraft Model A36 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic displays for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is February 21, 1992.

Comments must be received on or before February 21, 1992.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 103CE, room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 103CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: J. Lowell Foster, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Service, Central Region, Federal Aviation Administration, room 1544, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective 30 days after issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the rules docket for examination by interested parties, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 103CE." The postcard will be date stamped and returned to the commenter.

Background

On November 6, 1991, Tradewind Turbines, Post Office Box 31930, Amarillo, Texas 79120-1930, made an application to the FAA for a supplemental type certificate (STC) for the Beechcraft Model A36 airplane. The proposed modification incorporates a novel or unusual design feature such as digital avionics consisting of an electronic flight instrument system (EFIS) that is vulnerable to HIRF external to the airplane.

Type Certification Basis

The type certification basis for the Beechcraft Model A36 airplane is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1,

1965, including amendments 23–1 through 23–41; Special Federal Aviation Regulations (SFAR) No. 27, effective February 1, 1974, as amended by amendments 27–1 through 27–5; part 36 of the FAR, effective December 1, 1969, as amended by amendments 36–1 through 36–15 and special conditions adopted by this rulemaking action.

Discussion

Tradewind Turbines plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include electronic systems, which are susceptible to the HIRF environment and that were not envisaged by the existing regulations, for this type of airplane.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become a part of the type certification basis, as provided by § 21.17(a)(2).

Protection of System from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF incident on the external surface of aircraft. These induced transient currents and voltages can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the electromagnetic environment has undergone a transformation that was not envisaged when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the population of transmitters has increased significantly.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment, defined below:

TABLE I.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–500 KHz	60	60
500–2,000	80	80
2–30 MHz	200	200
30–100	33	33
100–200	150	33
200–400	56	33
400–1,000	4,020	935
1–2 GHz	7,850	1,750
2–4	6,000	1,150
4–6	6,800	310
6–8	3,600	666
8–12	5,100	1,270
12–18	3,500	551
18–40	2,400	750

The envelope given in paragraph 1 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the United States. It will also be adopted by the European Joint Airworthiness Authorities.

or:

(2) The applicant may demonstrate by a laboratory test that the electrical and electronic systems that perform critical functions can withstand a peak of electromagnetic field strength of 100 volts per meter (v/m) or the external HIRF environment, whichever is less, in a frequency range of 10KHz to 18GHz. When using a laboratory test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify electrical and/or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or a combination thereof. Service experience alone is not acceptable since such experience in normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Conclusion

In view of the design features discussed for the Beechcraft Model A36 airplane, the following special conditions are issued. This action is not a rule of general applicability and affects only those applicants who apply to the FAA for approval of these features on these airplanes.

The substance of these special conditions has been subject to the notice and public comment procedure in several prior instances. For example, the Piper PA–42 (51 FR 37711, October 24, 1986), the Dornier 228–200 (53 FR 14782, April 26, 1988), and the Cessna Model 525 (56 FR 49396, September 30, 1991). For this reason, and because a delay would significantly affect the applicant's installation of the system and certification of the airplane, which is imminent, the FAA has determined that good cause exists for adopting these special conditions without notice;

therefore, special conditions are being issued without substantive changes for this airplane and made effective 30 days after issuance.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Air transportation, Aviation safety, and Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the modified Beechcraft Model A36 airplane:

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definitions apply: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on January 13, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1485 Filed 1-21-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-241-AD; Amdt. 39-8158; AD 91-13-10 R1]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With Pratt and Whitney PW4000 Engines; and Boeing Model 767 Series Airplanes Equipped With Pratt and Whitney PW4000 or General Electric CF6-80C2-B2F and CF6-80C2-B6F Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Models 747 and 767 series airplanes, which currently requires the installation of new Engine Indicating and Crew Alerting System (EICAS) computers. The requirements of that AD are intended to prevent overspeed or uncommanded shutdown of an engine. This amendment adds additional airplane/engine configurations to the applicability of the rule. This action is prompted by a determination that these additional airplanes are subject to the same unsafe condition addressed in the existing AD.

DATES: Effective February 26, 1992.

The incorporation by reference of certain publications listed in the regulations was approved by the Director of the Federal Register on August 21, 1991 [Amendment 39-7041, (56 FR 29174, June 26, 1991)].

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2687; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: On June 5, 1991, the FAA issued AD 91-13-10, Amendment 39-7041 (56 FR 29174, June 26, 1991), which is applicable to Boeing Model 747 series airplanes equipped with Pratt and Whitney PW4000 engines and Model 767 series airplanes equipped with Pratt and Whitney PW4000 or General Electric CF6-80C2-B6F Engines. That AD requires the installation of new Engine Indicating and Crew Alerting System (EICAS) computers on these airplanes to provide proper message function and allow removal of a limitation from the airplane flight manual (AFM). The requirements of that AD are intended to prevent overspeed or uncommanded shutdown of an engine.

After issuance of that AD, it came to the attention of the FAA that some Boeing Model 767 airplanes that are equipped with GE CF6-80C2-B2F series engines are also subject to the unsafe condition addressed by AD 91-13-10, but were not included in the applicability of that AD. A careful review of Boeing Service Bulletin 767-31-0038, dated April 12, 1990, which is referenced in the existing AD as the appropriate source for service information, indicated that all Model 767 airplanes equipped with either GE CF6-80C2-B2F or CF6-80C2-B6F series engines were identified in the effectivity of the service bulletin. However, this information is not clearly stated in the service bulletin; the service bulletin identifies the affected airplanes, but does not list their engine models. Therefore, the applicability of AD 91-13-10 must be revised by including the Model 767 airplanes equipped with GE CF6-80C2-B2F series engine, since these airplanes are also subject to the addressed unsafe condition.

The FAA has determined that all Model 767 airplanes equipped with General Electric CF6-80C2-B2F engines are operated currently by foreign operators under foreign registry and, therefore, are not directly affected by this AD action. Nevertheless, this AD action is necessary to advise the cognizant foreign authorities that the subject unsafe condition may exist on these airplanes. Should one of the affected airplanes be placed on the U.S. Register in the future, it will require approximately 3 work hours to accomplish the replacement procedures, at an average labor charge of $55 per work hour. Based on these figures, the cost impact of this AD would be $165 per airplane.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by revising Amendment 39-7041, to read as follows:

91-13-10 R1 **Boeing:** Amendment 39-8158. Docket No. 91-NM-241-AD. Revises AD 91-13-10, Amendment 39-7041.

Applicability: Model 747 series airplanes equipped with Pratt and Whitney PW4000 engines; and Model 767 series airplanes equipped with Pratt and Whitney PW4000, General Electric CF6-80C2-B2F, or General Electric CF6-80C2-B6F series engines; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent overspeed or uncommanded shutdown of an engine, accomplish the following:

(a) For Model 747 series airplanes equipped with Pratt and Whitney PW4000 engines, and Model 767 series airplanes equipped with Pratt and Whitney PW4000 or General Electric CF6-80C2-B6F engines: Within 3 days after May 22, 1989 (the effective date of Amendment 39-6210), add the following to the Limitations Section of FAA-approved Airplane Flight manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

"Prior to each departure, with all engines running, refer to the EICAS status page and determine the dispatch capability of the aircraft."

(b) Within the next 24 months after August 12, 1991 (the effective date of Amendment 39-7041), replace the EICAS computers in accordance with the appropriate service bulletin listed below. After replacement of the EICAS computers in accordance with the specified service bulletins, the AFM limitation required by paragraph (a) of this AD may be removed.

(1) For Model 747 series airplanes listed in Boeing Service Bulletin 747-31-2151, dated March 29, 1990.

(2) For Model 767 series airplanes equipped with Pratt and Whitney PW4000 engines listed in Boeing Service Bulletin 767-31-0033, Revision 1, dated September 27, 1990.

(3) For Model 767 series airplanes equipped with General Electric CF6-80C2-B6F engines listed in Boeing Service Bulletin 767-31-0038, dated April 12, 1990.

(c) For Model 767 series airplanes equipped with General Electric CF6-80C2-B2F engines:

(1) Within the next 3 days after the effective date of this AD, add the following to the Limitations Section of FAA-approved Airplane Flight manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

"Prior to each departure, with all engines running, refer to the EICAS status page and determine the dispatch capability of the aircraft."

(2) Within the next 24 months after the effective date of this AD, replace the EICAS computers in accordance with Boeing Service Bulletin 767-31-0038, dated April 12, 1990. After incorporation of the EICAS computers, the AFM limitation required by paragraph (c)(1) may be removed.

(d) For airplanes not subject to paragraph (b) or (c) of this AD, within the next 30 days after the effective date of this AD, remove the AFM limitation required by paragraph (a) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(g) The replacement requirements shall be done in accordance with the following Boeing Service Bulletins, which incorporate the following list of affected pages:

Service bulletin	Revision level	Date	Pages
747-31-2151	Original	March 29, 1990.	1-10
767-31-0033	1	September 27, 1990.	1, 2, 4, 5
	Original	May 31, 1990.	3, 6, 7, 8, 9, 10
767-31-0038	Original	April 12, 1990.	1-8

This incorporation by reference was previously approved by the Director of the Federal Register at 56 FR 29174 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register 1100 L Street NW., room 8401, Washington, DC.

(h) This amendment (39-8158), AD 91-13-10 R1, becomes effective February 26, 1992.

Issued in Renton, Washington, on January 7, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1486 Filed 1-21-92; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 148 and 178

[T.D. 92-8]

RIN 1515-AA75

Customs Regulations Amendments Relating to the United States-Canada Free-Trade Agreement

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adopting final rules implementing the duty preference provisions of the United States-Canada Free-Trade Agreement, also referred to as the CFTA. The document addresses the public comments submitted in response to the interim regulations by which the CFTA was initially implemented, and it makes certain changes to those interim regulatory texts in response to the public comments and in order to set forth administrative decisions under the CFTA that are currently in effect.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Judy Schoeny, Office of Trade Operations (202) 566-7060); Audit and Forms Aspects: Marcus Sircus, Office of Regulatory Audit (202-566-2812); Legal Aspects: John Valentine, Office of Regulations and Rulings (202-566-8530).

SUPPLEMENTARY INFORMATION:

Background

On January 2, 1988, the United States and Canada entered into an agreement, the United States-Canada Free-Trade Agreement (CFTA). The objectives of the CFTA are to eliminate Customs duties and other barriers to trade in goods and services between the two countries, facilitate conditions of fair competition within the free-trade area, liberalize significantly conditions for investments within the free-trade area, establish effective procedures for the joint administration of the CFTA and the resolution of disputes, and lay the foundation for further bilateral and multilateral cooperation to expand and enhance the benefits of the CFTA. The provisions for the CFTA were adopted by the United States with the enactment of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (the "Act"), Public Law 100-449, 102 Stat. 1851

The function of the U.S. Customs Service is to implement those portions of the CFTA and the Act that relate to certain trade issues, in particular the rules of origin and related provisions, which form the basis for determining whether goods imported into the U.S. from Canada are eligible for the preferential duty treatment accorded to goods originating in Canada, and which are also set forth in General Note 3(c)(vii), Harmonized Tariff Schedule of the United States (HTSUS). To this end, Customs published interim Customs Regulations as T.D. 89-3 in the **Federal Register** on December 23, 1988 (53 FR 51762). The interim regulations provided for a 60-day public comment period which was subsequently extended, by a notice published in the **Federal Register** on March 13, 1989 (54 FR 10322), to March 23, 1989.

A total of thirteen parties submitted comments regarding one or more aspects of the interim regulations. The comments received, and the Customs responses thereto, are set forth below.

Discussion of Comments

A. Automotive Products—§ 10.84

Comment: One commenter suggested that § 10.84 be amended to provide that the certifications under paragraphs (b)(1)–(3) may appear on the commercial invoice or be attached thereto, as is allowed under current APTA procedures.

Customs response: The interim regulations did not in any way affect the previously accepted methods for providing the certification required by § 10.84. Moreover, under paragraph (a)(1) a Customs officer has the discretion to not require the certificate based on the circumstances of the particular importation. Accordingly, Customs does not believe that the proposed amendment is necessary.

Following publication of the interim regulations, Customs noticed an error in the next to last sentence of § 10.84(a)(1), where reference is made to a certificate executed by the "importer". It is clear that reference should be to the (Canadian) "exporter" because only a Canadian party would normally have knowledge of the facts set forth in the certificate regarding the Canadian origin of the imported goods. This document corrects this error.

B. Originating Goods—§ 10.303

Comment: One commenter suggests that the regulations should allow a maximum amount of permissible non-qualifying content (de minimis test), *e.g.*, 10 percent of the export value, before resort to the value content requirement is deemed necessary, because (1) it is not always possible to obtain 100 percent accurate (often, second hand) information from suppliers, (2) the exporter runs an unfair risk in being required to be 100 percent accurate, and (3) otherwise, even a minute amount of untransformed material would expose the whole product to the value test.

This same commenter also suggests that the regulations should be amended to clearly state that, for the purposes of the value test, the determination of what is originating or non-originating material is to be made on the basis of the condition of the exported product (*i.e.*, if a product has been transformed in accordance with the tariff shift test, then 100 percent of the value should be attributed to the value of materials originating in either country). This commenter argues that to require otherwise would contradict the CFTA because it would require disregarding the further processing performed by the exporter.

Customs responses: The rules of origin set forth in the CFTA do not provide for a de minimis test on third country content.

With regard to the second point, it should first be emphasized that the condition of the exported product is, indeed, the basis for determining whether an applicable value-added requirement is met. This being said, it appears that this commenter is misreading the CFTA rules of origin which in certain circumstances require that a distinction be made between the origin of the exported article and the origin of the constituent materials contained in that exported article: In cases where the rules of origin require application of a value-added test, the value of materials contained in the article may be counted only if the materials are considered to have already had their origin in either CFTA country at the time that they were incorporated into the article. In other words, an exported article would be considered to consist of 100 percent originating materials only if all of its constituent materials were wholly (*i.e.*, entirely, including in all prior forms or conditions) produced in a CFTA country and/or transformed so as to obtain origin in a CFTA country prior to their incorporation into the article. Conversely, an exported article would be considered to contain no originating material if the article resulted directly from the transformation of a material which had retained its non-CFTA country origin up until that transformation in the CFTA country. Moreover, even in a case where the exported article contains no originating materials, the further processing performed by the manufacturer is not simply disregarded, because the direct cost of that processing is independently countable toward the value-added requirement.

In the process of reviewing § 10.303, Customs noticed that the HTSUS General Note citation in paragraph (d) refers to subdivision "(Q)", whereas the proper reference should be to subdivision "(R)", and that the word "to" is missing before the citation. This document corrects these errors.

C. Circumvention—§ 10.304(b)

Comment: One commenter alleges that even though this provision follows the CFTA text, it will result in subjective and uneven application of the CFTA. Accordingly, this commenter recommends that the regulations be amended to indicate that operations performed solely in order to gain the preference (so-called "tariff engineering") are permissible. This commenter further suggests that examples of circumvention, as distinguished from qualifying operations performed in Canada, should be inserted in the regulation.

Customs response: Customs does not believe that this provision will lead to subjective and uneven application of the CFTA, because CFTA eligibility will be determined solely on the basis of compliance with the rules of origin and those rules are separate and distinct from the CFTA "circumvention" provision. The fact that "tariff engineering" by itself would not constitute "circumvention" is made clear in the Statement of Administrative Action, which accompanied the Act, wherein the following is stated: "The well-established right to configure merchandise in such a way that it is within the scope of one tariff provision that is more advantageous than another will not be infringed in any respect. The exercise of this right by itself will not be presumed to be circumvention." Customs does not believe that it is necessary to amend the regulations to state this basic principle which is implicit by virtue of the very existence of the CFTA program and the rules of origin incorporated therein. Moreover, because a case-by-case approach is necessary in applying the CFTA provisions, it is not possible to lay down general rules as regards what is or is not "circumvention". If doubt arises as to whether a particular operation would be allowable, the concerned private party may submit a request for a prospective ruling on the CFTA eligibility of the

goods in question under Part 177 of the Customs Regulations.

D. Value Content Requirement—§ 10.305

Comment: One commenter states that the regulations should be amended to clarify the difference between includable brokerage charges §§ 10.305(b)(2)(ii) and (c)(1)(ii)) and excludable brokerage charges (§ 10.305(e)(2)).This commenter, referring as an example to a case where a Canadian broker is paid for purchasing a product from abroad by telephone for the manufacturer, asks whether this is paid in Canada, or whether it relates to the importation, or both, and if both, whether it is part of the value of materials and not part of the direct costs of processing.

Customs response: This comment refers to two separate situations. Paragraphs (b)(2)(ii) and (c)(1)(ii) address those costs which are includable in determining the value of originating materials or the value of goods when exported (and for which CFTA status is claimed); paragraph (e)(2), on the other hand, refers to those costs which are not considered "direct" costs of processing operations. Although a brokerage charge may be includable for purposes of determining the value of either constituent materials or exported goods, it may not be included as a direct cost of processing. Customs believes that the regulations are sufficiently clear on this point and that no change is required.

Comment: Two commenters recommend amending § 10.305(b)(2)(iv) by adding at the end a reference to "assists", because the reference to subparagraph 1(b) of Article 8 of the Agreement on Implementation of Article VII of the GATT is not sufficiently explanatory. One of these commenters further suggests the inclusion therein of citations to the Customs Regulations provisions which discuss assists.

Customs response: Customs does not agree that the proposed amendments should be made. The regulatory reference follows the terms of the CFTA and of General Note 3(c)(vii)(N)(1)(IV), HTSUS, where use of the international GATT reference was deemed appropriate in consideration of the bilateral (hence, international) nature of the CFTA. Thus, a reference to "assists", which is not used in the international valuation code, would not be appropriate in this regulatory context.

E. Retroactive Claims/Reliquidation—§§ 10.307(b) and (c)

Comment: Six commenters state that § 10.307 is too restrictive in requiring that a claim for CFTA treatment be filed when the entry summary is filed (§ 10.307(b)) and that the Exporter's Certificate of Origin (Customs Form 353) be available when that claim is filed (§ 10.307(c)). They argue that these provisions bar retroactive claims for CFTA treatment, that better accuracy of claims will result if claims are allowed after filing the entry summary when all the facts are known, and that, as in the case of the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI), claims should be allowed, and Customs Form 353 made available, at any time prior to final liquidation. These commenters propose one or more of the following regulatory amendments to address these problems:

—Deletion of the restriction in § 10.307(b).

—Amendment of § 10.307 to reflect the language in §§ 10.172, 10.173(a), 10.198(a) and 10.112 of the Customs Regulations and to specifically allow action under 19 U.S.C. 1514 and 1520(c)(1). One commenter specifically suggests amending § 10.307(c) by inserting the following in the last sentence after "section": "or at the time of the filing of a request for remedial action under Parts 173 or 174 of this Chapter".

—Amendment of § 10.112 to explicitly allow for later availability of the Customs Form 353.

Customs response: The requirement in the second sentence of § 10.307(c) that the Exporter's Certificate of Origin "must be available" (*i.e.*, must be in existence) at the time the preference is claimed is merely a consequence of the requirement in the first sentence that a claim "shall be based" on the Exporter's Certificate of Origin. This first sentence requirement reflects the terms of Annex 406 of the CFTA which provides, among other things, that any importer making a declaration that goods meet the CFTA rules of origin must "base such declaration on the exporter's written certification to the same effect".

However, Customs does agree that § 10.307 may be overly restrictive in appearing to provide that a claim for CFTA treatment can be made only at the time of the filing of the entry summary by placing thereon the symbol "CA" before the HTSUS subheading covering the goods in question. There was never any intent on the part of Customs to deny to importers the opportunity afforded under other provisions of law to make a claim for a CFTA duty preference after the filing of the entry summary or equivalent documentation, either before or after liquidation of the entry. Thus, an importer may file a claim for a CFTA preference after filing the entry summary or its equivalent (1) at any time prior to liquidation, by requesting correction of the entry and submitting a valid Exporter's Certificate of Origin with a corrected entry, (2) within 90 days after liquidation, by filing a protest under 19 U.S.C. 1514, or (3) at any time within one year of the date of liquidation, by submission of a letter to Customs under 19 U.S.C. 1520(c)(1) requesting reliquidation of the entry provided the request is based on a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law. It should be noted, however, that a valid Exporter's Certificate of Origin covering the goods in question also must be in existence at the time that such a post-entry/entry summary claim is made.

Customs does not believe that it would be appropriate to amend § 10.307 to reflect the language of §§ 10.112, 10.172, 10.173(a), and 10.198(a) because those provisions generally concern the submission of documents which are a condition of entry (such as the GSP/CBI Certificate of Origin Form A), whereas the CFTA Exporter's Certificate of Origin is not required as part of the entry/entry summary (it is submitted to Customs only after entry and only if specifically requested). Nor does it seem necessary or appropriate to refer specifically to the right to file an amended entry or seek remedial action under 19 U.S.C. 1514 or 1520(c)(1) because these are actions of general applicability and thus are not normally cited in a context as specific as the CFTA, and it is noted in this regard that no problems appear to have arisen from the longstanding absence of such references in the GSP and CBI regulations. Rather, it would appear preferable to simply remove the overly restrictive language from § 10.307 so as to better reflect the law and current Customs policy. Accordingly, § 10.307 has been amended (1) in paragraph (a), by replacing the words "is claimed" by the words "may be claimed", (2) in paragraph (b), by deleting the first sentence and by redrafting the retained second sentence of refer to a timely claim "for a preference under the Agreement", and (3) in paragraph (c), by deleting the words "under paragraph (a) of this section" which appear twice and by simply referring to a claim for a preference "under the Agreement".

F. General Use of Customs Form 353

Comment: One commenter argues that Customs Form 353 should not be used at all, because in its present form it is not required by the CFTA, is too long and

complicated, and does not serve to enforce the basic thrust of the CFTA which is country of origin of the imported goods. Instead, this commenter suggests allowing a simple written statement that the goods qualify under the CFTA, which could be put on existing Customs documents.

Customs response: Customs does not agree. The format of the Exporter's Certificate of Origin was developed during bilateral discussions between the United States and Canada. Moreover, this commenter appears to misunderstand the main thrust of the CFTA, which is reduced or duty-free treatment for goods that meet specific rules of origin (which involve more than merely "country" of origin); the elements on Customs Form 353 are included primarily with those rules of origin in mind and are necessary to establish CFTA eligibility. A simple written statement that the goods qualify under the CFTA, placed on existing Customs documents, would be totally inadequate for verifying CFTA eligibility.

Comment: One commenter suggests that the regulations be amended to allow bonding for production of Customs Form 353, as is done in the case of the GSP and CBI.

Customs response: Inasmuch as the CFTA specifically requires that a claim for duty preference be based on an existing written certification by the exporter, and in view of the fact that the Exporter's Certificate of Origin does not form part of the entry package (rather, it is only submitted after entry and only if requested by Customs), it is not a bondable form. As regards the practice under the GSP and CBI, this commenter fails to note the distinction between the Certificate of Origin Form A (which is normally part of the entry package) and the GSP and CBI Declaration which, like the CFTA form, is submitted only upon request for post-entry verification and thus has never been a bondable form. Moreover, Customs has taken a policy decision, reflected in Directive 3550–27 dated September 8, 1987, to reduce paperwork by requiring neither a bond for production of a missing document (such as a GSP or CBI Form A) nor actual submission of the missing document unless Customs specifically requests it in writing. Accordingly, Customs does not accede to this commenter's suggestion.

Comment: One commenter recommends that § 10.307(c) be amended to permit completion and signature of Customs Form 353 by the person who has knowledge of the origin content of the goods (*i.e.*, the actual supplier or manufacturer), because the exporter is often a consolidator or packager who does not have the necessary information and thus should not bear the responsibility and liability for this. This commenter suggests that this could be done by defining "exporter" to include the actual supplier or manufacturer, with the result that the consolidator/exporter who is not the actual supplier would only be responsible for passing on the Customs Form 353 which accompanied the goods to their consolidation location.

Customs Response: The CFTA specifically requires that the certification be made by the "exporter". In a case in which the exporter is only a consolidator or packager, it nevertheless remains the responsibility of that exporter to obtain from the supplier or manufacturer the information needed to make the required certification.

Comment: One commenter suggests that brokers should be permitted in the regulations to correct clerical and more substantial errors appearing on Customs Form 353, with the approval of the exporter. This commenter further argues that brokers should not be required to possess or retain Customs Form 353 at any time, because it is the responsibility and liability of the consignee/buyer to do so.

Customs response: As regards the correction of clerical or other errors on Customs Form 353, a broker with a valid power of attorney from the exporter is empowered to act in that principal's name and thus would have the authority to correct such errors. With regard to the possession or retention of Customs Form 353, it should be noted that brokers acting as importer of record or as an agent on behalf of the importer of record are required to maintain records pertaining to the transaction, under 19 U.S.C. 1508 and under 19 U.S.C. 1641 and the regulations issued thereunder (19 CFR part 111). Accordingly, Customs does not believe that any changes to the regulations are necessary or appropriate in regard to these points.

Comment: One commenter recommends that Customs Form 353 be amended throughout to include citations to the HTSUS General Note provisions dealing with the CFTA.

Customs Response: Customs believes that inclusion of citations to the various HTSUS General Note 3(c) provisions dealing with the CFTA would unduly complicate Customs Form 353, thus rendering it more difficult to use. Moreover, inclusion of such citations would require amending the Form if at any future time the numbering scheme within General Note 3(c) were changed. In addition, because Customs Form 353 is a dual-use form acceptable in both Canada and the United States under the CFTA, inclusion of only citations to United States legal provisions would appear to be inappropriate. Customs believes that the present approach, whereby a general cross-reference to HTSUS General Note 3(c) is set forth in § 10.301, is preferable.

G. Specific Elements of Customs Form 353

1. Field 2—Blanket Certification

Comment: In order to align with the Canadian practice and reduce paperwork, two commenters recommend that the 6-month period for blanket certifications be extended to 12 months. Another commenter suggests that the regulations be amended to specifically provide for blanket certifications, including the length of time for which they will be valid.

Customs response: When the CFTA went into effect Customs determined that for import purposes it would be preferable to provide for blanket certifications for a maximum period of only 6 months, until such time as it could be determined that a longer period (*i.e.*, 12 months) would be workable. Customs subsequently reviewed the issue and concluded that it would be in the best interests of the public and the Government to allow a 12-month blanket certification period. Accordingly, on May 2, 1990, Customs Headquarters advised field offices by telex (and the trade community through those field offices) that blanket exporter's certificates completed on or after June 1, 1990, could have a maximum valid period of 12 months.

Customs agrees that the regulations should refer to blanket certifications and to the maximum 12-month period, and it is noted in this regard that, as further discussed below, such a change will also provide an opportunity to clarify an administrative position which Customs has taken with regard to the use of blanket certifications.

2. Field 3—Consignee Identification

Comment: Two commenters recommend complete elimination of Field 3 on the grounds that (1) it is burdensome for exporters who ship identical merchandise to many consignees, (2) the name of the consignee is irrelevant to the issue of whether the goods qualify for CFTA treatment and (3) the identity of the consignee appears elsewhere in the entry package.

Customs response: Field 3 should be retained because its inclusion on the Form resulted from bilateral discussions between the U.S. and Canada, and its

elimination should similarly be made only by bilateral agreement. Nevertheless, Customs has recognized that completion of Field 3 may create an unnecessary burden when the same information is on the entry documents. Accordingly, on October 1, 1990, Customs Headquarters advised field offices by telex (and the trade community through those field offices) that henceforth (1) an exporter will be allowed to leave Field 3 blank unless it is the exporter's intention to restrict the applicability of the Form to one or more buyers, or (2) alternatively, exporters will be allowed to issue blanket certificates showing "Various" in Field 3. In connection with the next revision of Customs Form 353, consideration will be given to whether the instructions on the reverse side should be amended to reflect this position.

Comment: Three commenters raise issues regarding the identity of the party to be included in Field 3. One commenter simply recommends that the regulations define "consignee" so that it is clear what party should be identified in the field. Another commenter suggests that, to avoid the need for obtaining a new Customs Form 353 when a blanket certification is out of date because there are new ultimate customers to whom the goods will be delivered, only the identity of the intended user (*i.e.*, the importer of record) should be required in Field 3. The third commenter states that the regulations should allow the identification in Field 3 to include the consignee, purchaser or importer.

Customs response: Shortly after the CFTA went into effect, Customs Headquarters issued a telex to field offices (with instructions that copies be provided to the trade community) stating that the party to be identified in Field 3 could be the consignee, the purchaser, or the importer of record, and this remains the Customs position. The flexibility provided by this position could, among other things, solve the problem of having to obtain a new Customs Form 353 where a blanket certification is no longer valid due to the acquisition of new ultimate customers. As in the case of the blanket certification period, Customs is of the opinion that any further clarification as to the party or parties to be identified in Field 3, if deemed necessary, should not be done through a regulatory amendment but rather should be reflected in the instructions set forth on the reverse side of Customs Form 353. Accordingly, Customs will consider including this change in connection with the next revision of Customs Form 353.

3. Field 4—Producer Identification

Comment: Three commenters suggest elimination of Field 4 because (1) it goes beyond the intent of the Customs Form 353 which is to show the relationship between the exporter and the importer, (2) identification of the manufacturer(s) poses a substantial administrative burden in cases involving multiple line items and manufacturers in one shipment and (3) confidentiality of business information would be lost if the exporter is compelled to reveal the names of its suppliers to its export customers, and this could potentially lead to a loss of future sales to those customers who would be able to source the goods directly from the suppliers. On the issue of confidentiality, one of these commenters suggests, in the alternative, that some way be found to maintain confidentiality, *e.g.*, by merely requiring that the exporter maintain on file the certificates of origin from its suppliers.

Customs response: Customs does not agree that Field 4 goes beyond the intent of Customs Form 353, because the true purpose of the form is to demonstrate that the imported goods originate in Canada under the CFTA rules, and information regarding the producer is often a crucial factor in verifying the origin of the goods. As regards the alleged substantial administrative burden resulting from this requirement, Customs would point out that a decision whether to enter into a CFTA transaction is essentially a business decision requiring a balancing of anticipated rewards against possible drawbacks or risks. Accordingly, Field 4 must be retained.

On the issue of confidentiality, Customs has recognized that completion of Field 4 could result in the disclosure of sensitive information regarding the exporter's sources of supply. In order to address this problem, Customs Headquarters on October 1, 1990, advised field offices (and the trade community through those field offices) that henceforth Field 4 may be completed with the statement "Available to U.S. Customs Upon Request". Customs will consider whether a corresponding amendment to the instructions applicable to Field 4 should be made during the next revision of Customs Form 353.

4. Fields 5 and 7—Origin Criteria

Comment: One commenter states that these two fields are unnecessary and thus should be eliminated because they do not serve to establish eligibility. In other words, if Customs questions the claimed eligibility, other evidence would still have to be presented to Customs to support the claim.

Customs response: Customs does not agree that these two fields should be eliminated. Where a claim for CFTA treatment is filed, there is a presumption that the exporter has performed a review of the goods to determine that they comply with the CFTA origin criteria. The Exporter's Certificate of Origin, and in particular the information in Fields 5 and 7, serves to support that presumption. In many cases the information provided on the certificate, coupled with the Customs officer's knowledge of the particular product line, will obviate the need to ask for additional evidence to support the claim. On the other hand, in the absence of the information contained in Fields 5 and 7, other evidence to support the claim would have to be submitted in every case.

Comment: One commenter points out that an additional criterion is necessary in Field 5, namely, a category for goods which comprise only goods which are wholly produced or obtained in Canada or the United States and/or goods which otherwise qualify as materials originating in Canada or the United States.

Customs response: The CFTA texts do not specifically address a product which is not "wholly" produced or obtained in the United States or Canada but which consists entirely of materials that have United States or Canadian origin under the CFTA origin rules. Consultations between the United States and Canada to resolve this problem are ongoing.

5. Field 8—Description of Goods

Comment: Two commenters argue that Field 8 is unnecessary because the information requested is already available on invoices and other documents in the entry package.

Customs response: Customs does not agree. A description of the goods is necessary to establish a connection between the goods covered by the CFTA claim and those goods as described on the invoices and other documents in the entry package. This is particularly true in cases where the shipment in question covers both goods covered by a CFTA claim and goods for which no CFTA claim is made. Finally, given the fact that the Exporter's Certificate of Origin is only supplied to Customs after entry has taken place, it would be extremely difficult, if not impossible, to connect a certificate to the correct entry package without a description of the goods covered by the certificate.

Comment: Two commenters object to the onerous administrative burden

imposed by the requirement that the precise or estimated number of third country constituent materials per unit be indicated in Field 8 if a change in tariff classification criterion is used and there are multiple constituent materials.

Customs response: In connection with the administrative review and approval of the use of Customs Form 353, the instructions regarding third country materials were eliminated from the reverse side of the form. Accordingly, there is no longer any requirement that third country materials be separately listed in Field 8.

6. Field 11—Certification

Comment: Two commenters argue that the certification language should be amended to include the words "to the best of my knowledge and belief" in order to avoid the strict warranty that presently appears, because often the person signing the Customs Form 353 is under severe time constraints and does not have direct knowledge as to all facts when the certificate must be completed.

Customs response: The CFTA requires that the exporter certify that the goods in fact meet the CFTA rules of origin, not that they appear to do so based on the exporter's knowledge (however incomplete that knowledge may be) and belief (however misplaced that belief may be). To amend the certification language as proposed would be contrary to the express terms of the CFTA and would in effect totally nullify the legal force of the certification procedure and the CFTA rules or origin upon which the duty preference is based. In response to the alleged lack of direct knowledge problem, Customs points out that use of the CFTA duty preference is not an absolute right but rather is conditional on the establishment of certain facts, and the exporter must establish those facts in advance of the claim for CFTA treatment. As regards time constraint problems, the exporter can always wait until those time constraints have disappeared and, as discussed above, so long as liquidation has not become final the U.S. importer can always delay making the claim until a proper Exporter's Certificate of Origin is in hand.

Comment: One commenter states that the certification language imposes an impossible burden on retailers that source goods from hundreds of vendors for resale, because there is often a lack of first-hand knowledge of the true facts regarding the production of the goods and because such retailers cannot maintain the required records where supply and manufacturing operations are constantly changing.

Customs response: The response to the preceding comment is also relevant here. The retailer simply must obtain from its supplier the information necessary to complete the Exporter's Certificate of Origin, and the retailer must obtain updated information if sources or manufacturing operations change. Customs recognizes that meeting the CFTA requirements may be more difficult for some parties than for others (given the variables that apply from one business operation to another).

H. Records Retention—§ 10.308

Comment: One commenter suggests that this provision be amended to allow a broker to retain the records in place of the importer of record, because the broker interfaces directly with Customs.

Customs response: Under 19 U.S.C. 1508 and 19 CFR 162.1b and 162.1c, an importer must retain records pertaining to his import transactions for a period of 5 years from the date of entry of the merchandise. It would be clearly contrary to this legal requirement for Customs to provide in the CFTA regulations for retention of the Exporter's Certificate of Origin by a broker as a replacement for retention by the importer of record. A broker acting as an agent of the importer is separately required to maintain records pertaining to that importer's transactions, both under 19 U.S.C. 1508 and the regulations thereunder and under 19 U.S.C. 1641 and 19 CFR 111.21–111.23.

Additional Changes to the Regulations

Since the CFTA went into effect, Customs has had occasion to address a number of important CFTA issues in connection with the issuance of binding rulings and other administrative decisons. These rulings and decisions, which clarify and interpret the CFTA and the regulations thereunder, reflect official positions of Customs and thus are currently being applied by Customs. In order to provide the trade community with the greatest possible guidance and predictability as regards application of the CFTA provisions, Customs believes that the principles reflected in those rulings and decisions should be incorporated in the regulations. Accordingly, this final rule document sets forth additional regulatory changes to incorporate those rulings and decisions as well as certain editorial or organizational changes to add clarity and improve the readability of the regulations. The sections of the interim regulations affected by these changes are indicated below.

Section 10.303

This section, which has been reorganized, includes a new paragraph (b) which clarifies the meaning of "originating materials"; the definition of "materials" reflects the definition in article 304 of the CFTA and the definition of "originating" is based on the definition in article 201 of the CFTA. In addition, a new paragraph (c) has been added to clarify that under the CFTA a "change in classification" has reference to a change within the international Harmonized System. Finally, a reference to the HTSUS provision covering the CFTA has been added to the paragraph concerning goods wholly obtained or produced, in order to align on the approach used in the following paragraph.

Section 10.305

This section, which has been reorganized, includes a new paragraph (a)(3) which interprets the CFTA provisions regarding direct cost of processing or assembling. In addition, a new paragraph (b)(3) has been added to set forth interpretations of the CFTA provisions regarding the value of originating materials.

Section 10.307

A new paragraph (d)(2) has been added to clarify the manner in which blanket certifications may be used.

Section 10.310

The first sentence in paragraph (b) has been amended to clarify that the election to average is binding for the entire period covered by the election.

Conclusion

Accordingly, based on the comments received and the analysis of those comments as set forth above, Customs believes that, with the exception of the interim amendment to § 24.23 which was the subject of a separate rulemaking procedure implementing the Customs user fee provisions contained in § 111 of the Customs and Trade Act of 1990 (Public Law 101–382) (see T.D 91–95 published December 5, 1991, 56 FR 63648), the interim regulations published as T.D. 89–3 should be adopted as a final rule with certain changes thereto as discussed above and set forth below In addition, part 178, Customs Regulations (19 CFR part 178), is being amended to indicate the OMB-assigned control number for the information collections contained in this final rule

Inapplicability of Public Notice and Delayed Effective Date Provisions

Because the amendments contained in this document reflect existing statutory requirements or relieve a restriction or merely implement interpretations and policies that are already in effect under interim regulations, good cause exists under 5 U.S.C. 553(b) (A) and (d) for dispensing with public notice and delayed effective date procedures.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in Executive Order 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information in this final regulation, contained in §§ 10.84, 10.307, 10.310 and 10.311, have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(h)) under control number 1515–0164. The estimated annual burden per respondent/recordkeeper varies from 15 minutes to 225 hours, depending on individual circumstances, with an estimated average of 3.55 hours. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspections, Imports, Motor Vehicles.

19 CFR Part 148

Customs duties and inspections, Imports.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

Accordingly, that portion of the interim rule amending parts 10 and 148, Customs Regulations (19 CFR parts 10 and 148), which was published at 53 FR 51762–51777 on December 23, 1988, is adopted as a final rule with the following changes:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624.

§ 10.84 [Amended]

2. In § 10.84(a)(1), fifth sentence, remove the word "importer" and add, in its place, the word "exporter".

3. Section 10.303 is revised to read as follows:

§ 10.303 Originating goods.

(a) *General.* For purposes of eligibility for a preference under the Agreement, goods may be regarded as originating goods if:

(1) *Wholly of Canadian or United States origin.* The goods are wholly obtained or produced in the Territory of Canada or the United States, or both, as set forth in General Note 3(c), HTSUS;

(2) *Transformed with a change in classification.* The goods have been transformed by a processing which results in a change in classification and, if required, a sufficient value-content, as set forth in General Note 3(c), HTSUS; or

(3) *Transformed without a change in classification.* An assembly of goods, other than goods of chapters 61 to 63 of the HTSUS, which does not result in a change in classification because the goods were imported in an unassembled or disassembled form and classified as the goods, unassembled or disassembled, pursuant to General Rule of Interpretation 2(a), HTSUS, or because the tariff subheading for the goods provides for both the goods themselves and their parts, shall nonetheless be treated as originating goods if:

(i) The value of originating materials and the direct cost of assembling in Canada or the United States, or both, as defined in § 10.305 constitute not less than 50 percent of the value of the goods when exported to the United States;

(ii) The assembled goods are not subsequently processed or further assembled in a third country; and

(iii) The goods satisfy the requirement in § 10.306.

(b) *Originating materials.* For purposes of this section and § 10.305, the term "materials" means goods, other than those included as part of the direct cost of processing or assembling, used or consumed in the production of other goods, and the term "orginating" when used with reference to such materials means that the materials satisfy one of the criteria for originating goods set forth in paragraph (a) of this section.

(c) *Change in classification.* For purposes of paragraph (a) of this section, the expression "change in classification" means a change of classification within the Harmonized Commodity Description and Coding System (Harmonized System) as published and amended from time to time by the Customs Cooperation Council.

(d) *Articles of feather.* The goods are eligible to be treated as originating in Canada pursuant to General Note 3(c)(vii)(R)(12)(ee), HTSUS.

4. Section 10.305 is revised to read as follows:

§ 10.305 Value content requirement.

(a) *Direct cost of processing or assembling.*

(1) *Definition.* For purposes of applying a specific rule of origin under the Agreement which requires a value content determination, the terms "direct cost of processing" and "direct cost of assembling" mean the costs directly incurred in, or that can be reasonably allocated to, the production of goods, including:

(i) The cost of all labor, including benefits and on-the-job training, labor provided in connection with supervision, quality control, shipping, receiving, storage, packaging, management at the location of the process or assembly, and other like labor, whether provided by employees of independent contractors;

(ii) The cost of inspection and testing the goods;

(iii) The cost of energy, fuel, dies, molds, tooling, and the depreciation and maintenance of machinery and equipment, without regard to whether they originate within the territory of the United States or Canada;

(iv) Development, design, and engineering costs;

(v) Rent, mortgage interest, depreciation on buildings, property

insurance premiums, maintenance, taxes and the cost of utilities for real property used in the production of the goods; and

(vi) Royalty, licensing, or other like payments for the right to the goods.

(2) *Exclusions from direct costs of processing or assembling.* Excluded from the direct costs of processing or assembling are:

(i) Costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;

(ii) Brokerage charges relating to the importation and exportation of goods;

(iii) Costs for telephone, mail, and other means of communication;

(iv) Packing costs for exporting the goods;

(v) Royalty payments related to a licensing agreement to distribute or sell the goods;

(vi) Rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes, and the cost of utilities for real property used by personnel charged with administrative functions; and

(vii) Profit on the goods.

(3) *Interpretation.* (1) *Indirect materials.* Under the definition of "materials" set forth in § 10.303(b), certain types of materials are treated as direct costs of processing or assembling under paragraph (a) of this section. This applies principally to materials used or consumed indirectly in the production of exported goods, where no portion of those materials is physically incorporated in the exported goods. In addition to the items specified in paragraph (a)(1)(iii) of this section, such materials include items such as gloves and safety glasses worn by production workers, tape used in painting processes, and tools, materials and spare parts used in the repair and maintenance of machinery and equipment used in the production of the exported goods. Such materials are to be distinguished from waste and spoilage specified in paragraph (b)(1)(ii)(C) of this section, which relate to materials that are physically incorporated in the exported goods.

(ii) *Directly incurred.* In order for costs incurred by a production facility to be treated as direct costs of processing or assembling, those costs must be directly incurred in the production of the exported goods and not merely associated with the production facility as peripheral costs necessary to operate the facility. In addition to the exclusions set forth in paragraph (a)(2) of this section, such peripheral costs include labor costs for nurses tending to employees, for accounting personnel involved in physical inventory taking, for personnel responsible for purchasing or requisitioning materials to be used or consumed in the production process, and for second level supervisors and above who are not directly involved in the production process.

(iii) *Labor costs.* Under paragraph (a)(1)(i) of this section, labor costs includable as direct costs of processing or assembling are limited to labor provided by the producer's employees or by independent contractors. Thus, for example, where processing operations are performed on components in the United States and those components are sold to a manufacturer in Canada where they are incorporated in goods exported to the United States, the cost of those processing operations in the United States cannot be separately counted as a direct cost of processing attributable to the finished goods exported to the United States.

(iv) *Interest expense.* Under paragraphs (a)(1)(v) and (a)(2)(vi) of this section, mortgage interest, secured by real property, will be treated as a direct cost of processing or assembling, but only for that portion of the interest which is related to real property directly used in the production of the exported goods; thus, where the entire production facility is covered by a mortgage and incorporates both production and administrative or other general expense space, an appropriate allocation must be made in order to ensure that only that portion of the interest which is attributable to the production area is counted toward the value-content requirement. Interest expenses not covered by a mortgage (including interest on funds borrowed to meet the payroll of personnel who are directly involved in the production process, interest on inter-company loans and interest on lines of credit) are general and administrative costs or expenses and thus are not considered direct costs of processing or assembling.

(b) *Value of originating materials.* (1) *Definition.* The term "value of materials originating in the United States or Canada or both" means the aggregate of:

(i) The price paid by the producer of exported goods for materials originating in either the United States or Canada, or both, or for materials imported from a third country used or consumed in the production of such originating materials; and

(ii) When not included in that price, the following costs related thereto:

(A) Freight, insurance, packing and all other costs incurred in transporting any of the materials referred to in paragraph (b)(1)(i) of this section to the location of the producer;

(B) Duties, taxes and brokerage fees on such materials paid in the United States, or Canada, or both;

(C) The cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or by-product; and

(D) The value of goods and services relating to such materials determined in accordance with subparagraph 1(b) of Article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.

(2) *Directly attributable.* Whenever a value-content determination is required by the rules of the Agreement and whenever originating materials and materials obtained or produced in a third country are used or consumed together in the production of goods in the United States or Canada, the value of originating materials may be treated as such only to the extent that the value is directly attributable to the goods under consideration.

(3) *Interpretation.* (i) *Price paid.* As provided in paragraph (b)(1) of this section, the "price paid" for materials by the producer of exported goods forms the basis for determining the value of such materials when incorporated in the exported goods. The actual price paid for such materials will determine the value of those materials for purposes of the value-content requirement, even though a relationship between the producer and the seller of the materials may have influenced the price, except where the price did not include items specified in paragraph (b)(1)(ii) of this section that relate to the materials. The following examples will illustrate these principles. Notwithstanding these examples, the totality of the facts must be examined in each case to determine whether § 10.304(b) is applicable.

Example 1. Non-originating materials are sold by Company X (a foreign corporation located outside the United States or Canada) to Company Y (a Canadian corporation) for $100; Company X also sold identical materials to Company Z (a U.S. corporation) for $200 which was the price Company Z had paid to Company X for similar materials prior to implementation of the Agreement; and those non-originating materials sold by Company X to Company Y are then incorporated by Company Y into goods exported to the United States. In this case the $100 price paid by Company Y to Company X constitutes the value of those materials for purposes of the value-content requirement.

Example 2. Company X purchased materials for $100, added a four percent

mark-up to the price paid to defray purchasing expenses, and then sold the marked-up materials to Company Y (a Canadian corporation) which incorporated the materials in goods exported to the United States. In this case the $104 price paid by Company Y to Company X constitutes the value of the materials for purposes of the value-content requirement.

Example 3. Company X (a foreign corporation located outside the United States) sold non-originating materials to Company Y (a U.S. corporation) for $200, and Company Y then sold those materials for $100 to Company Z (a Canadian corporation) which incorporated the materials in goods which were imported into the United States by Company P (the U.S. parent company of Company Y). In this case, in accordance with paragraph (b)(1)(ii)(D) of this section, $100 would be added to the price paid by Company Z for purposes of the value-content requirement because the materials were sold at a reduced cost within the meaning of subparagraph 1(b) of Article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.

(ii) *Originating materials for which no price paid.* In cases involving a vertically integrated producer (that is, an entity which produces goods for export from materials which that producer has also made) a "price paid" for such originating materials normally does not exist. Even in the absence of a "price paid", such a vertically integrated producer may still claim the materials as originating materials for purposes of qualifying the finished goods exported to the United States as goods originating in Canada. However, under paragraph (b)(1)(i) of this section the value of those materials for purposes of applying the value-content requirement is limited to the price paid for those materials imported from the third country plus any costs added thereto under paragraph (b)(1)(ii) of this section. The following examples will illustrate these principles.

Example 1. If an automobile producer in the United States or Canada fabricates body panels wholly from third country steel coil, those body panels can qualify as originating materials without having to satisfy a value-content requirement because steel coil is classified in chapter 72 of the Harmonized System and body panels are classified in chapter 87 and the change in classification rules in chapter 87 do not incorporate a value-content requirement in this context. Thus, the producer can claim the body panels fabricated from the third country steel as originating materials for purposes of the value-content requirement applicable to the finished automobile which will be exported to the United States. The value of those originating materials is the price paid for the steel coil imported from the third country and used or consumed in the production of the body panels.

Example 2. An automobile exporter in Canada purchases and imports body panels fabricated in a third country in order to join them with vertically (locally) fabricated body panels to form an automobile body. If the body qualifies as an originating material, the exporter has two options. Under the first option, the exporter can claim the body as originating material, in which case the value of originating material is the price paid for the foreign body panels. Under the second option, the exporter may elect not to claim the body as originating material; but, rather, the exporter may claim as originating material any domestic steel coil used in producing the vertically (locally) fabricated body panels, in which case the value of originating materials is the price paid for the domestic steel coil.

(c) *Value of goods when exported.* The term "value of the goods when exported to the United States" means the aggregate of:

(1) The price paid by the producer for all materials, whether or not the materials originate in the United States, or Canada, or both, and, when not included in the price paid for the materials, the following costs related thereto:

(i) Freight, insurance, packing, and all other costs incurred in transporting all materials to the location of the producer;

(ii) Duties, taxes, and brokerage fees on all materials paid in the United States, or Canada, or both;

(iii) The cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or by-product; and

(iv) The value of goods and services relating to all materials determined in accordance with subparagraph 1(b) of Article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs Trade; and

(2) The direct cost of processing or the direct cost of assembling the goods.

5. Section 10.307 is amended by revising paragraphs (a) through (d) to read as follows:

§ 10.307 Documentation.

(a) *Claims for a preference.* A preference in accordance with the Agreement may be claimed by including on the entry summary, or equivalent documentation, the symbol "CA" as a prefix to the subheading of the HTSUS under which each eligible good is classified.

(b) *Failure to claim a preference.* Failure to make a timely claim for a preference under the Agreement will result in liquidation at the rate which would otherwise be applicable.

(c) *Documentation showing origin.* A claim for a preference under the Agreement shall be based on the Exporter's Certificate of Origin, properly completed and signed by the person who exports or knowingly causes the goods to be exported from Canada. The Exporter's Certificate of Origin must be available at the time the preference is claimed and shall be presented to the district director upon request.

(d) *Exporter's Certificate of Origin.* (1) *General.* The Exporter's Certificate of Origin shall be prepared on Customs Form 353. In lieu of the Customs Form 353, the exporter may use an approved computerized format or such other format as is approved by the Headquarters, U.S. Customs Service, Office of Trade Operations, Washington, DC 20229. Alternative formats must contain the same information and certification set forth on Customs Form 353.

(2) *Blanket certifications.* A blanket Exporter's Certificate of Origin, not to exceed a period of 12 months, issued for goods claimed as originating goods under the Agreement, can only be used if the certifying exporter is able to verify that the goods in each shipment to be covered by the blanket certification actually qualify for treatment under the Agreement. A blanket certification does not allow an exporter to average its costs over the blanket certification period in order to establish that the exported goods meet the criteria for originating goods under the Agreement. Under § 10.308, the exporter must retain supporting records that will permit a review of the eligibility of the goods in each shipment covered by a blanket certification.

* * * * *

6. In § 10.310(b), the first sentence is revised to read as follows:

§ 10.310 Election to average for motor vehicles.

* * * * *

(b) * * *

"An election to average shall be binding at the time of the first entry of vehicles for which the election has been made and shall remain binding for the plant for the entire period covered by the election."

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continued to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by inserting the following in the appropriate numerical sequence according to the section number under the column indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
§ 10.84	Origin certificate for automotive products from Canada	1515-0164
* * *	* * *	* * *
§§ 10.307, 10.310, and 10.311	Claim for duty-free entry and election to average for automotive products under the U.S.-Canada Free Trade Agreement.	1515-0164
* * *	* * *	* * *

Carol Hallett,
Commissioner of Customs.

Approved: December 18, 1991.

Peter K. Nunez,
Assistant Secretary of the Treasury.

[FR Doc. 92-1437 Filed 1-21-92; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 24

[T.D. 92-7]

Update of Ports Subject to the Harbor Maintenance Fee

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulation; solicitation of comments.

SUMMARY: Commercial cargo loaded on or unloaded from commercial vessels at certain ports is subject to the harbor maintenance fee pursuant to the Water Resources Development Act of 1986 and interim Customs Regulations regarding the harbor maintenance fee. This document amends the list of ports subject to the fee. This amendment is made to further clarify the port descriptions and to update the list as to locations which are exempt from the fee.

DATES: The port descriptions are effective as of January 22, 1992. Written comments must be received by February 21, 1992.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, Customs Service Headquarters, room 2119, 1301 Constitution Avenue, NW., Washington, DC 20029.

FOR FURTHER INFORMATION CONTACT: Patricia Barbare, User fee Task Force, (202) 566-8648.

SUPPLEMENTARY INFORMATION:

Background

The Water Resources Development Act of 1986 (Pub. L. 99-662) established a Harbor Maintenance Trust Fund to be used for improving and maintaining ports and harbors in the U.S. Pursuant to the Act, this fund is supported by a harbor maintenance fee assessed on port use by vessels carrying water-borne commercial cargo. By assessing a charge for port use, the Act causes those shippers and importers who benefit from the maintenance of a Federal port or harbor to share in the cost of that maintenance.

The Act defines port generally as any channel or harbor or component thereof in the U.S. which is not an inland waterway, is open to public navigation, and at which Federal funds have been used since 1977 for construction, maintenance or operation.

Customs published T.D. 87-44 in the **Federal Register** (52 FR 10198) on March 30, 1987, establishing interim regulations for the collection of the harbor maintenance fee. The regulations are set forth in § 24.24, Customs Regulations (19 CFR 24.24). When drafting T.D. 87-44, Customs, in conjunction with the U.S. Army Corps of Engineers, took the definition of port in the Act and established a list of ports in § 24.24(b)(1), Customs Regulations (19 CFR 24.24(b)(1)). The list of ports includes in the descriptions and notations column the description of movements which are considered intraport; pursuant to the Water Resources Development Act and § 24.24(d)(1) of the regulations, the fee is not to be assessed on the mere movement of commercial cargo within a port. Commercial ports with depths of less than nine feet were not included on the list. Customs stated in T.D. 87-44 that the list is subject to change and will be amended, if necessary, to reflect money spent by the U.S. Army Corps of Engineers for construction, maintenance or operation of any port not on the list.

On July 14, 1987, Customs published a clarifying amendment to the harbor maintenance fee interim regulations in the **Federal Register** (52 FR 26297) reformatting the list of ports to assist users.

On May 9, 1991, Customs published in the **Federal Register** (56 FR 21445), T.D. 91-44, an amendment to the interim harbor maintenance fee regulations that increased the fee pursuant to the Omnibus Budget Reconciliation Act of 1990, and changed certain forms used for remitting payments, requesting refunds and making supplemental payments.

In this document, Customs again is amending the interim regulations on the harbor maintenance fee to clarify the listing in § 24.24(b)(1) of ports subject to the harbor maintenance fee. The Army Corps of Engineers has informed Customs that the list published in 1987 inadvertently included some areas that did not have Army Corps of Engineers work done there and excluded some areas in which Army Corps of Engineers work was done. Further, the Army Corps of Engineers has determined that clarification is necessary regarding the intraport nature of certain movements. Customs is amending § 24.24(b)(1) accordingly.

Comments

It is noted that the harbor maintenance fee regulations are still interim. While the comment period has expired on the main portion of the interim regulations (see 52 FR 20593, dated June 2, 1987; extension of comment period on interim regulations to August 28, 1987), Customs will give consideration to any written comments (preferably in triplicate) timely submitted relating to the description of the ports set forth in this document. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs

Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Inapplicability of Notice and Delayed Effective Date

The statutory effective date of the harbor maintenance fee was April 1, 1987. Because these amendments merely clarify the interim regulations that implement the statutory provision and do not impose any additional burdens on, or take away any existing rights or privileges from the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure is impracticable and unnecessary. Similarly, pursuant to 5 U.S.C. 553(d)(1)(3), a delayed effective date is not provided. These amendments are effective as of the date of publication in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

This amendment does not meet the criteria for a "major rule" within the meaning of Executive Order 12291, and a regulatory impact analysis has not been prepared. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 24

Accounting, Customs duties and inspection, Imports, Taxes.

Amendments to the Regulations

Part 24, Customs Regulations (19 CFR part 24) is amended as set forth below:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority for part 24, Customs Regulations (19 CFR part 24) and the specific relevant authority for § 24.24 Customs Regulations (19 CFR 24.24), continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624; 31 U.S.C. 9701, unless otherwise noted.

* * * * *

Section 24.24 also issued under 26 U.S.C. 4461, 4462;

* * * * *

2. The list of ports subject to the harbor maintenance fee set forth in § 24.24(b)(1), Customs Regulations (19 CFR 24.24(b)(1) is revised to read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(b) *Definitions.*

(1) * * *

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE

[Section 1402 of PL 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Alabama	
1901—Mobile	
Alaska	
3126—Anchorage	Includes Iliuliuk Harbor, Seldovia Harbor, and Homer. Movements between these points are intraport. (Dutch Harbor—not intraport.)
3106—Dalton Cache	Includes Haines Harbor.
3101—Juneau	Includes only Hoonah Harbor. Fee does not apply to Juneau Harbor.
3102—Ketchikan	Includes Metlakatla Harbor.
3127—Kodiak	
3112—Petersburg	Includes Wrangell Narrows.
3125—Sand Point	Includes Humboldt and King Cove.
3115—Sitka	Includes Sergius-Whitestone Narrows.
California	
2802—Eureka	Includes Crescent City.
Los Angeles/Long Beach Ports	Includes Ventura, Port Hueneme, Channel Islands Harbor, Santa Barbara, Los Angeles and Long Beach. Movements between these points are intraport.
2709—Long Beach Harbor	
2704—Los Angeles	
2713—Port Hueneme	
2712—Ventura	
2805—Monterrey	
2719—Moro Bay	Includes only Moro Bay.
2501—San Diego	Includes Oceanside Harbor.
2707—San Luis	
San Francisco Bay Area Ports*	Includes all points inshore of the Golden Gate Bridge on the bays and the straits and on the Napa, Sacramento and San Joaquin Rivers, and on the deep water channels to Sacramento and Stockton. Movements between points above Suisun Bay (Longitude 122 degrees West at Port Chicago) are intraport. Movements between points below Longitude 122 degrees West and the Golden Gate Bridge are all intraport. All other movements are interport.
2813—Alameda	
2830—Carquinez Strait	
2815—Crockett	
2820—Martinez	
2811—Oakland	
2821—Redwood City	
2812—Richmond	
2816—Sacramento	
2809—San Francisco	
2828—San Joaquin	
2829—San Pablo Bay	
2827—Shelby	
2810—Stockton	
2831—Suisun Bay	
Connecticut	
0410—Bridgeport	Includes Housatonic River, and Stamford Harbor, and Wilson Point Harbor. Movements between these points are intraport.

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE—Continued

[Section 1402 of PL 99-662, as amended]

Port code, port name and state	Port descriptions and notations
0411—Hartford	Includes all points on the Connecticut River between Hartford and Long Island Sound. Movements within this area are intraport.
0412—New Haven	
0413—New London	
Delaware	
Delaware River Ports, DE, NJ, PA*	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuylkill River, Pennsylvania. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements within this area are intraport.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
District of Columbia	
Potomac River Ports, DC, MD, VA*	Includes all points on the Potomac River (see Chesapeake Bay Ports map) from a line between Point Lookout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport.
5402—Alexandria, VA	
5401—Washington, DC	
Florida	
1807—Boca Grande	
1805—Fernandina Beach	
5205—Fort Pierce	
1803—Jacksonville	
5202—Key West	
5201—Miami	
1818—Panama City	For HMF purposes, also includes Carrabelle and Port St. Joe.
1819—Pensacola	
1816—Port Canaveral	
5203—Port Everglades	
Tampa Bay Ports*	Includes Alafia River, Port Manatee, Port Sutton, Port Tampa, Weedon Island, and all other points on o approached using the Tampa Harbor Channel inshore of the Sunshine Skyway Bridge. Movements between these points are intraport.
1814—St. Petersburg	
1801—Tampa	
5204—West Palm Beach	
Georgia	
1701—Brunswick	Includes St. Marys River.
1703—Savannah	
Hawaii	
3202—Hilo	Includes Kawaihae.
3201—Honolulu	Includes Barbers Point Harbor.
3203—Kahului	Includes Kaunakakai Harbor.
3204—Nawiliwili-Port Allen	Includes both Nawiliwili and Port Allen.
Illinois	
Southern Lake Michigan Ports	Includes Waukegan Harbor, IL. Indiana Harbor (East Chicago, IN) Calumet Harbor, the Chicago River (up to the North Avenue Bridge) and the Chicago Harbor. Fee applies at the ports of Michigan City and Burns Waterway Harbor, IN. Fee does not apply at Buffington Harbor or Gary Harbor. Movements within an area from Waukegan, IL to Michigan City, IN are intraport.
3901—Chicago	
3902—East Chicago	
3905—Gary	
Indiana	
Southern Lake Michigan Ports	Includes Waukegan Harbor, IL. Indiana Harbor (East Chicago, IN) Calumet Harbor, the Chicago River (up to the North Avenue Bridge) and the Chicago Harbor. Fee applies at the ports of Michigan City and Burns Waterway Harbor, IN. Fee does not apply at Buffington Harbor or Gary Harbor. Movements within an area from Waukegan, IL to Michigan City, IN are intraport.
3901—Chicago	
3902—East Chicago	
3905—Gary	
Louisiana	
2017—Lake Charles	Includes all points on the Calcasieu River and Pass.
Mississippi River Ports/Baton Rouge and Vicinity*	Includes all river points from River Mile 115 Above Head of Passes (AHP) at the St. Charles Parish-Jefferson Parish line, to River Mile 233.9 AHP at Baton Rouge. Movements between these points are intraport.
2004—Baton Rouge	
2009—Destrehan	
2010—Gramercy	
2014—Good Hope	
2013—St. Rose	
Mississippi River Ports/New Orleans and Vicinity*	Includes all river points from River mile 115 AHP to Mile 21.6 Below Head of Passes (BHP) via Southwest Pass and to Mile 14.7 BHP via South Pass. Also includes all points on the Inner Harbor Navigation Canal and the Mississippi River Gulf Outlet. Movements between these points are intraport.
2012—Avondale	
2002—New Orleans	
2005—Port Sulphur	
2001—Morgan City*	Includes Atchafalaya River from Morgan City to the Gulf, the Houma Navigation Canal, and points on the Gulf Intracoastal Waterway between Mile 49.8 West and Mile 107.0 West. Movements between these points are intraport.
Maine	
0102—Bangor	
0111—Bath	
0132—Belfast	Includes all Penobscot River points (Bucksport and Winterport). Fee does not apply at Belfast, Sandy Point, or Castine Harbor.

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE—Continued

[Section 1402 of PL 99-662, as amended]

Port code, port name and state	Port descriptions and notations
0101—Portland	
Maryland	
Chesapeake Bay Ports, MD*	Includes all Maryland points on Chesapeake Bay and its tributary waters except for the Potomac River. Also includes the Waterway from Delaware River to Chesapeake Bay west of U.S. 13 highway bridge. Movements between these points are intraport. (Also see Chesapeake Bay Ports: VA).
1303—Baltimore	
1302—Cambridge	
Massachusetts	
0401—Boston	Includes all of the Port of Boston inshore of Castle Island on the Inner Harbor and Chelsea and Mystic Rivers and all points on the Weymouth Fore, and Town and Black Rivers, and Dorchester Bay. Movements between points on the Saugus River in the north to Scituate in the south are intraport.
0404—Gloucester	
0407—Fall River	
Michigan	
3843—Alpena	Fee does not apply to Stoneport.
Monroe/Detroit/Harbor Beach	Includes Monroe, Detroit, and the Detroit River, St. Clair and the St. Clair River, Port Huron and all points on the Rouge and Black Rivers. Fee also applies at Harbor Beach, MI. All movements within this area between Monroe and Harbor Beach, MI are intraport.
3801—Detroit	
3802—Port Huron	
3808—Escanaba	Fee applies at all points on the little Bay de Noc above Escanaba, including Gladstone and Kipling. Movements within an area from Escanaba to the Mackinac Bridge are intraport. Fee does not apply at Escanaba.
South Central Lake Superior Ports	Includes Ontonagon Harbor, all points on the Keweenaw Waterway, Presque Isle Harbor and Marquette and Grand Marais. Movements between all Michigan ports on Lake Superior are intraport.
3809—Marquette	
3842—Presque Isle	
Eastern Lake Michigan Ports	Fee applies at Charlevoix, Frankfort, Manistee, Ludington, Pentwater Harbor, Ferrysburg, White Lake Harbor, Muskegon, Grand Haven, and South Haven, Holland, and St. Joseph/Benton Harbor, MI. All movements between Eastern Lake Michigan ports are intraport.
3815—Muskegon	
3816—Grand Haven	
3844—Ferrysburg	
Upper Lake Huron Ports	Includes all points on the St. Mary's River, the ports of Cheyboygan, Alpena, Bay City, and Saginaw, MI. Includes the Saginaw River. Does not include Alabaster, Cacit, Port Dolomite, Port Inland, Port Gypum or Stoneport. Movements within an area from Sault Ste. Marie and the Saginaw River are intraport.
3803—Sault Ste. Marie	
3804—Saginaw-Flint-Bay City	
3843—Alpena	
Minnesota	
Duluth/Superior Area Ports	Fee applies at Two Harbors and Duluth, MN and Superior, WI. Fee also applies at Ashland and Port Wing, WI and Grand Marais, MN. Fee does not apply at Taconite, or Silver Bay, MN. All movements between Silver Bay, MN and Ashland, WI are considered intraport.
3601—Duluth	
3602—Ashland	
3608—Superior	
3614—Silver Bay	
3614—Silver Bay	Fee applies only at Grand Marais. See Duluth/Superior Area Ports.
Mississippi	
1902—Gulfport	
1903—Pascagoula	
New Hampshire	
0131—Portsmouth	
New Jersey	
Delaware River Ports, DE, NJ, PA*	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuylkill River, Pennsylvania. Fee applies to all movements on the Chesapeake & Delaware Canal east of U.S. Highway 13. Includes Abescon Inlet (Atlantic City) and Cold Spring Inlet. Movements between these points are intraport.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
1003—Newark	See New York Harbor.
1004—Perth Amboy	See New York Harbor
New York	
New York Harbor, NY, NJ*	Includes all points in New York and New Jersey within the Port of New York on the waters inshore of a line between Sandy Hook and Rockaway Point and south of Tappan Zee Bridge on the Hudson and west of Throgs Neck Bridge of the East River Movements between these and all points within the New York Port District boundaries described in New York Code (Chapter 154, Laws of New York, 1921), are intraport.
1001—New York	
1003—Newark	
1004—Perth Amboy	
1002—Albany*	Includes all points on the Hudson River between Tappan Zee Bridge and the Troy Lock and Dam. Movements between points within this area are intraport.
0901—Buffalo-Niagara Falls	Includes Buffalo Harbor, Black Rock Channel and Tonawanda Harbor, and all points on Cattaraugus Creek, and Dunkirk Harbor. Movements between these points are intraport.
0706—Cape Vincent	
0701—Ogdensburg	
0904—Oswego	
0903—Rochester	
0905—Sodus Point	Includes Little Sodus Bay Harbor, and Great Sodus Bay Harbor
North Carolina	
1511—Beaufort-Morehead City	Includes Ocracoke Inlet. Movements within this area are intraport.
1501—Wilmington	Includes all points on the Cape Fear and Northeast Cape Fear Rivers inshore of the Atlantic Ocean entrance. Movements within this area are intraport.

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE—Continued

[Section 1402 of PL 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Ohio	
Lake Erie Ports	Includes Toledo, Sandusky, Huron, Lorain, Cleveland, Fairport, Ashtabula, Conneaut and Erie. Movements between these points are intraport. Fee does not apply at Marblehead.
4108—Ashtabula	
4101—Cleveland	
4109—Conneaut	
4106—Erie	
4111—Fairport	
4117—Huron	
4121—Lorain	
4105—Toledo-Sandusky	
Oregon	
Columbia River Ports, OR, WA	Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River mile 21. Includes the Multnoma Channel, the Skipanon Channel, and Oregon Slough. Movements between points within this area are intraport.
2901—Astoria, OR	
2904—Portland, OR	
2909—Kalama, WA	
2905—Longview, WA	
2908—Vancouver, WA	
2903—Coos Bay	Includes Port Orford, the Siuslaw River, and Umpaqua River. Movements between these points are intraport.
2902—Newport	Includes Tillamook Bay, and Yaguina Bay and Harbor.
Pennsylvania	
Delaware River Ports, DE, NJ, PA *	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuyikill River, Pennsylvania. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements between these points are intraport.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
Puerto Rico	
4907—Mayaguez	
4908—Ponce	Does not include Guayanilla.
4909—San Juan	Includes Arecibo.
Rhode Island	
0502—Providence	
South Carolina	
1601—Charleston	Includes the Ashley River, Cooper River, Shipyard River, and Port Royal Harbor. Movements within this area are intraport.
1602—Georgetown	
Texas	
2301—Brownsville	Includes Port Isabel and Brazos Island Harbor. Movement between these points is intraport.
5312—Corpus Christi	
5312—Freeport	
Galveston Bay Ports *	Includes Port Bolivar and all points on Galveston Bay in Galveston County. Movements between points within this area are intraport.
5310—Galveston	
5306—Texas City	
5301—Houston *	Includes Bayport, Baytown, and all other points on or accessed via the Houston Ship Channel from the Liberty/Chambers county line on the north to the Chambers/Galveston county line to the south. Movements within this area are intraport.
5313—Port Lavaca	Includes Matagorda Ship Channel.
Sabine Ports *	Includes Port Neches, Sabine Pass and all other points on the Sabine-Neches Waterway. Movements between these points are intraport.
2104—Beaumont	
2103—Orange	
2101—Port Arthur	
2102—Sabineport	
Virginia	
Potomac River Ports, DC, MD, VA *	Includes all points on the Potomac River (see Chesapeake Bay Ports map) from a line between Point Lookout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport.
5402—Alexandria, VA	
5401—Washington, DC	
Chesapeake Bay Ports, VA *	Includes all Virginia points on Chesapeake Bay inshore of a line from Cape Henry to Cape Charles, and tributary waters including the ports of Hampton Roads. Does not include the Potomac River or the James River above the James River Bridge at Newport News. Movements between points within this area are intraport. (Also see Chesapeake Bay Ports, MD.)
1406—Cape Charles	
1402—Newport News	
1401—Norfolk	
James River Ports, VA	Includes all points on the James River above the James River Bridge at Newport News. Movements between these points within this area are intraport.
1408—Hopewell	
1404—Richmond/Petersburg	
Washington	
3003—Aberdeen	Includes Grays Harbor and Yaguina Bay and Harbor. Movements between these points are intraport.

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE—Continued

[Section 1402 of PL 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Puget Sound Ports, WA *	Fee applies only at ports listed. Bellingham includes all of Bellingham Bay and tributary waters north of Chuchanut Bay on the east, and Portage Island on the west. Port Everett includes all of Port Dardner (an arm of Possession Sound) between Elliott Point on the south to, and including, the Snahomish River on the north. The port of Olympia includes all points on Budd Inlet extending from Cooper and Dofflemyer Point on the north to, and including, the city of Olympia on the south. The fee applies to all points within the Inner Harbor of the Port of Seattle, including Salmon Bay, Lakes Union and Washington, the Lake Washington Ship Canal, and Kenmore Navigation Channel. Includes all points on Elliott Bay and tributary waters between West Point on the north and Duwamish Head on the south. Fee applies at all points within Tacoma Harbor including all of Commensement Bay and tributary waters between Browns Point on the east and Point Defiance on the west. Movements between these ports and any other U.S. points on Puget Sound or the Strait of Juan de Fuca east of Cape Flattery are intraport.
3005—Bellingham	
3006—Everett	
3026—Olympia	
3007—Port Angeles	
3001—Seattle	
3002—Tacoma	
Columbia River Ports, WA, OR	Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River mile 21. Includes the Multnoma Channel, the Skipanon Channel, and Oregon Slough. Movements between points within this area are intraport.
2901—Astoria, OR	
2904—Portland, OR	
2909—Kalama, WA	
2905—Longview, WA	
2908—Vancouver, WA	
Wisconsin	
3602—Ashland	See Duluth/Superior Area Ports, MN.
Green Bay/Marinette Area Ports	Fee applies to all movements between points along the Sturgeon Bay and Lake Michigan Ship Canal. Fee also applies to Green Bay, Oconto, and Menominee/Marinette. Movements between points from Menominee and points along the Sturgeon Bay and Lake Michigan Ship Canal are intraport.
3703—Green Bay	
3702—Marinette	
Western Lake Michigan Ports	Includes the ports of Milwaukee, Racine, and Sheboygan, MN. All movements between these points are intraport.
3701—Milwaukee	
3708—Racine	
3707—Sheboygan	

* Indicates that a map of this area is available from the Users Fee Task Force, U.S. Customs Service, Room 4112, 1301 Constitution Ave. NW., Washington, DC 20229; tel. 202-566-8648.

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: January 15, 1992.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 92-1436 Filed 1-21-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

Records and Reports of Importation and Exportation of Certain Machines

AGENCY: Drug Enforcement Administration, (DEA).

ACTION: Final rule.

SUMMARY: This final rule amends the regulations implementing the Chemical Diversion and Trafficking Act of 1988 (CDTA) by requiring that regulated persons who import or export tableting or encapsulating machines maintain records and file reports.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington. DC 20537, telephone (202) 307-7297.

SUPPLEMENTARY INFORMATION: On May 20, 1991, a notice of proposed rulemaking was published in the **Federal Register** (56 FR 23037). The DEA proposed to amend 21 CFR 1310.05 and 1310.06 to include requirements that regulated persons who import or export tableting or encapsulating machines maintain records and file reports. This requirement was inadvertently omitted from the Notice of Proposed Rulemaking to implement the CDTA. The proposed rulemaking provided an opportunity for interested parties to submit comments or objections in writing before July 19, 1991.

One comment regarding procedural changes was received. Specifically, the comment noted that to be consistent with the Chemical Diversion and Trafficking Act and DEA regulations, the term 'report', rather than 'notify', should be used. DEA agrees, and the term 'report', rather than 'notify' will be used as appropriate. The comment further noted that the proposed regulation was worded in such a way that there might be confusion regarding where, when and how the reports should be made. As a result, changes were made in the format of the regulation in order to clarify the requirements. No changes were made to the specific requirements of the rule.

The Deputy Assistant Administrator, Office of Diversion Control, hereby certifies that this final rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This final rule is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to sections 3(c)(3) and 3(e)(2)(c) of Executive Order 12291, this final rule has been reviewed by the Office of Management and Budget.

This action has been analyzed in accordance with the principles and criteria in E.O. 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1310

Drug Enforcement Administration, Drug traffic control, Reporting and recordkeeping requirements.

For reasons set out above, 21 CFR part 1310 is amended as follows:

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

2. Section 1310.05 is amended by adding new paragraph (c) as follows:

§ 1310.05 Reports.

* * * * *

(c) Each regulated person who imports or exports a tableting machine, as

defined in § 1310.01(i), or encapsulation machine, as defined in § 1310.01(j), shall file a report (not a 486) of such importation or exportation with the Administration at the following address on or before the date of importation or exportation: Drug Enforcement Administration, P.O. Box 28346, Washington, DC 20038. In order to facilitate the importation or exportation of any tableting machine or encapsulating machine and implement the purpose of the Act, regulated persons may wish to report to the Administration as far in advance as possible. A copy of the report may be transmitted directly to the Drug Enforcement Administration through electronic facsimile media. Any tableting machine or encapsulating machine may be imported or exported if that machine is needed for medical, commercial, scientific, or other legitimate uses. However, an importation or exportation of a tableting machine or encapsulating machine may not be completed with a person whose description or identifying characteristic has previously been furnished to the regulated person by the Administration unless the transaction is approved by the Administration.

3. Section 1310.06 is amended by revising paragraph (c) and adding new paragraphs (e), (f) and (g) as follows:

§ 1310.06 Contents of records and reports.

* * * * *

(c) Each report required by § 1310.05(a) shall include the information as specified by § 1310.06(a) and, where obtainable, the telephone number of the other party. A report submitted pursuant to § 1310.05(a)(1) or (a)(3) must also include a description of the circumstances leading the regulated person to make the report, such as the reason that the method of payment was uncommon or the loss unusual. If the report is for a loss or disappearance under § 1310.05(a)(3), the circumstances of such loss must be provided (in-transit, theft from premises, etc.).

* * * * *

(e) Each report of an importation of a tableting machine or an encapsulating machine required by § 1310.05(c) shall include the following information:

(1) The name, address, telephone number, telex number, and, where available, the facsimile number of the regulated person; the name, address, telephone number, telex number, and, where available, the facsimile number of the import broker or forwarding agent, if any;

(2) The description of each machine (including make, model, and serial number) and the number of machines being received;

(3) The proposed import date, and the first U.S. Customs Port of Entry; and

(4) The name, address, telephone number, telex number, and, where available, the facsimile number of the consignor in the foreign country of exportation.

(f) Each report of an exportation of a tableting machine or an encapsulating machine required by § 1310.05(c) shall include the following information:

(1) The name, address, telephone number, telex number, and, where available, the facsimile number of the regulated person; the name, address, telephone number, telex number, and, where available, the facsimile number of the export broker, if any;

(2) The description of each machine (including make, model, and serial number) and the number of machines being shipped;

(3) The proposed export date, the U.S. Customs Port of exportation, and the foreign Port of Entry; and

(4) The name, address, telephone, telex, and, where available, the facsimile number of the consignee in the country where the shipment is destined; the name(s) and address(es) of any intermediate consignee(s).

(g) Declared exports of machines which are refused, rejected, or otherwise deemed undeliverable may be returned to the U.S. exporter of record. A brief written report outlining the circumstances must be sent to the Drug Enforcement Administration, P.O. Box 28346, Washington, DC 20038, following the return within a reasonable time. This provision does not apply to shipments that have cleared foreign customs, been delivered, and accepted by the foreign consignee. Returns to third parties in the United States will be regarded as imports.

* * * * *

Dated: December 17, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-1461 Filed 1-21-92; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 725

Release of Official Information for Litigation

AGENCY: Department of the Navy, DOD.

ACTION: Interim rule and request for comments.

SUMMARY: This regulation assigns responsibilities to Department of the Navy (DON) personnel in responding to requests from members of the public for official DON information (testimonial, documentary, or otherwise) in connection with litigation. The publication of this DON instruction will assist members of the public in submitting such requests. It implements Department of Defense Directive 5405.2 of July 23, 1985, codified in 32 CFR part 97, regarding the release of official information in connection with litigation. It restates the requirements contained in Secretary of the Navy Instruction 5820.8A of August 27, 1991, and is intended to conform to that instruction in all respects.

DATES: Interim rule effective January 22, 1992; comments must be received on or before February 21, 1992.

ADDRESSES: Comments may be mailed to the following address: Department of the Navy, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael T. Palmer, Office of the Judge Advocate General, General Litigation Division, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone: (703) 325-9870.

SUPPLEMENTARY INFORMATION:

(a) *Purpose of the regulation.* This regulation establishes policy, assigns responsibilities, and prescribes procedures for responding to requests for the release of official DON information, including testimony by DON personnel as witnesses, in connection with actual or contemplated litigation. It does not apply to requests unrelated to litigation or pursuant to the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a. In addition to providing an orderly means for obtaining information needed in litigation to members of the public, its provisions also protect the interests of the United States, including the safeguarding of classified and privileged information. This regulation ensures that responses to litigation requests are provided in a manner that does not prevent the accomplishment of the mission of the command or activity affected. It sets forth the proper content of a request received from a member of the public for release of official DON information in connection with litigation and indicates the factors to be considered in deciding whether to authorize the release of official DON

information or the testimony of DON concerning official information. The regulation also prescribes the conduct of DON personnel in response to a litigation request or demand.

(b) *Impact of the regulation.* The regulation is not a "major rule" as defined by Executive Order 12291. Therefore, no regulatory impact analysis has been prepared. The DON certifies that this regulation will not have an impact on a significant number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The regulation has no collection of information requirements and does not require the approval of OMB under 44 U.S.C. 3501 et seq. This regulation is not subject to the relevant provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), and does not contain reporting or record-keeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 725

Courts, Government employees.

For the reasons set out in the preamble it is proposed to revise title 32, part 725 of the Code of Federal Regulations to read as follows:

PART 725—RELEASE OF OFFICIAL INFORMATION FOR LITIGATION PURPOSES AND TESTIMONY BY DEPARTMENT OF THE NAVY PERSONNEL

Sec.

Authority: 5 U.S.C. 301; 10 U.S.C. 113, 5013; 31 U.S.C. 9701 and 32 CFR part 97.

§ 725.1 Purpose.

This instruction implements 32 CFR part 97 regarding the release of official Department of the Navy (DON) information and provision of testimony by DON personnel for litigation purposes, and prescribes conduct of DON personnel in response to a litigation request or demand. It restates the information contained in Secretary of the Navy Instruction 5820.8A of 27 August 1991[1], and is intended to conform in all respects with the requirements of that instruction.

§ 725.2 Policy.

(a) It is DON policy that official factual information, both testimonial and documentary, should be made reasonably available for use in Federal courts, state courts, foreign courts, and other governmental proceedings unless that information is classified, privileged, or otherwise protected from public disclosure.

(b) DON personnel, as defined in § 725.4(b), however, shall not provide such official information, testimony, or documents, submit to interview, or permit a view or visit, without the authorization required by this part.

(c) DON personnel shall not provide, with or without compensation, opinion or expert testimony concerning official DON or Department of Defense (DOD) information, subjects, personnel, or activities, except on behalf of the United States or a party represented by the Department of Justice, or with the written special authorization required by this part.

(d) Section 725.2(b) and (c) constitute a regulatory general order, applicable to all DON personnel individually, and need no further implementation. A violation of those provisions is punishable under the Uniform Code of Military Justice for military personnel and is the basis for appropriate administrative procedures with respect to civilian employees. Moreover, violations of this instruction by DON personnel may, under certain circumstances, be actionable under 18 U.S.C. 207.

(e) Upon a showing by a requester of exceptional need or unique circumstances, and that the anticipated testimony will not be adverse to the interests of the DON, DOD, or the United States, the General Counsel of the Navy, the Judge Advocate General of the Navy, or their respective delegates may, in their sole discretion, and pursuant to the guidance contained in this instruction, grant such written special authorization for DON personnel to appear and testify as expert or opinion witnesses at no expense to the United States.

§ 725.3 Authority to act.

(a) The General Counsel of the Navy, the Judge Advocate General of the Navy, and their respective delegates [hereafter "determining authorities" described in § 725.4(a), shall respond to litigation requests or demands for official DOD information or testimony by DON personnel as witnesses.

(b) If required by the scope of their respective delegations, determining authorities' responses may include: consultation and coordination with the Department of Justice or the appropriate United States Attorney as required; referral of matters proprietary to another DOD component to that component; determination whether official information originated by the Navy may be released in litigation; and determination whether DOD personnel assigned to or affiliated with the Navy may be interviewed, contacted, or used as witnesses concerning official DOD information or as expert or opinion witnesses. Following coordination with the appropriate commander, a response may further include whether installations, facilities, ships, or aircraft may be visited or inspected; what, if any, conditions will be imposed upon any release, interview, contact, testimony, visit, or inspection; what, if any, fees shall be charged or waived for access under the fee assessment considerations set forth in § 725.11; and what, if any, claims of privilege, pursuant to this instruction, may be invoked before any tribunal.

§ 725.4 Definitions.

(a) *Determining authority.* The cognizant DON or DOD official designated to grant or deny a litigation request. In all cases in which the United States is, or might reasonably become, a party, or in which expert testimony is requested, the Judge Advocate General or the General Counsel of the Navy, depending on the subject matter of the request, will act as determining authority. In all other cases, the responsibility to act as determining authority has been delegated to all officers exercising general court-martial convening authority, or to their subordinate commands, and to other commands and activities indicated in § 725.6.

(b) *DON personnel.* Active duty and former military personnel of the naval service including retirees; personnel of other DOD components serving with a DON component; Naval Academy midshipmen; present and former civilian employees of the DON including non-appropriated fund activity employees; non-U.S. nationals performing services overseas for the DON under provisions of status of forces agreements; and other specific individuals or entities hired through contractual agreements by or on

[1] Copies may be obtained, if needed, from the Naval Publications and Forms Directorate, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120-5099.

behalf of DON, or performing services under such agreements for DON (e.g., consultants, contractors and their employees and personnel).

(c) *Factual and expert or opinion testimony.* DON policy favors disclosure of factual information if disclosure does not violate the criteria stated in § 725.8. The distinction between factual matters, and expert or opinion matters (where DON policy favors non-disclosure), is not always clear. The considerations set forth below pertain.

(1) Naval personnel may merely be percipient witnesses to an incident, in which event their testimony would be purely factual. On the other hand, they may be involved with the matter only through an after-the-event investigation (e.g., JAGMAN investigation). Describing the manner in which they conducted their investigation and asking them to identify factual conclusions in their report would likewise constitute factual matters to which they might testify. In contrast, asking them to adopt or reaffirm their findings of fact, opinions, and recommendations, or asking them to form or express any other opinion—particularly one based upon matters submitted by counsel or going to the ultimate issue of causation or liability—would clearly constitute precluded testimony under the above policy.

(2) Naval personnel, by virtue of their training, often form opinions because they are required to do so in the course of their duties. If their opinions are formed prior to, or contemporaneously with, the matter in issue, and are routinely required of them in the course of the proper performance of their professional duties, they constitute essentially factual matters (i.e., the opinion they previously held). Opinions formed after the event in question, including responses to hypothetical questions, generally constitute the sort of opinion or expert testimony which this instruction is intended to severely restrict.

(3) Characterization of expected testimony by a requester as fact, opinion, or expert is not binding on the determining authority. When there is doubt as to whether or not expert or opinion (as opposed to factual) testimony is being sought, advice may be obtained informally from, or the request forwarded, to the Deputy Assistant Judge Advocate General (General Litigation) or the Associate General Counsel (Litigation) for resolution.

(d) *Litigation.* All pretrial, trial, and post-trial stages of all existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before civilian courts, commissions, boards (including the Armed Services Board of Contract Appeals), or other tribunals, foreign and domestic. This term includes responses to discovery requests, depositions, and other pretrial proceedings, as well as responses to formal or informal requests by attorneys or others in situations involving, or reasonably anticipated to involve, civil or criminal litigation.

(e) *Official information.* All information of any kind, however stored, in the custody and control of the DOD and its components including the DON; relating to information in the custody and control of DOD or its components; or acquired by DOD personnel or its component personnel as part of their official duties or because of their official status within DOD or its components, while such personnel were employed by or on behalf of the DOD or on active duty with the United States Armed Forces (determining whether "official information" is sought, as opposed to non-DOD information, rests with the determining authority identified in § 725.6, rather than the requester).

(f) *Request or demand (legal process).* Subpoena, order, or other request by a federal, state, or foreign court of competent jurisdiction, by any administrative agency thereof, or by any party or other person (subject to the exceptions stated in § 725.5) for production, disclosure, or release of official DOD information or for appearance, deposition, or testimony of DON personnel as witnesses.

§ 725.5 Applicability.

(a) This instruction applies to all present and former civilian and military personnel of the DON whether employed by, or assigned to, DON temporarily or permanently. Affected personnel are defined more fully in § 725.4(b).

(b) This instruction applies only to situations involving existing or reasonably anticipated litigation, as defined in § 725.4(d), when DOD information or witnesses are sought, whether or not the United States, the DOD, or its components are parties thereto. It does not apply to formal or informal requests for information in other situations.

(c) This instruction provides guidance only for DON operation and activities of its present and former personnel in responding to litigation requests. It is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable at law or equity against the United States, DOD, or DON.

(d) This instruction is not intended to infringe upon or displace the responsibilities committed to the Department of Justice in conducting litigation on behalf of the United States.

(e) This instruction does not supersede or modify existing laws, DOD or DON regulations, directives, or instructions governing testimony of DON personnel or release of official DOD or DON information during grand jury proceedings.

(f) This instruction does not control release of official information in response to requests unrelated to litigation or under the Freedom of Information Act (FOIA), 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a. This instruction does not preclude treating any written request for DON records as a request under the FOIA or Privacy Acts. Activities are encouraged to treat such requests for documents under the FOIA or the Privacy Act if they are invoked by the requestor either explicitly or by fair implication. See 32 CFR 701.3(a), 701.10(a). Activities are reminded that such treatment does not absolve them of the responsibility to respond in a timely fashion to legal process. In any event, if the official information requested pertains to a litigation matter which the United States is a present or potential party, the release authority should notify the delegate of the General Counsel or the Judge Advocate General, under § 725.6.

(g) This part does not apply to release of official information or testimony by DON personnel in the following situations:

(1) Before courts-martial convened by any DOD component, or in administrative proceedings conducted by, or on behalf of, such component;

(2) Under administrative proceedings conducted by, or on behalf of, the Equal Employment Opportunity Commission (EEOC) or the Merit Systems Protection Board (MSPB), the Federal Labor Relations Authority, the Federal Services Impasse Panel, or under a negotiated grievance procedure under a collective bargaining agreement to which the Government is a party;

(3) In response to requests by Federal Government counsel, or counsel representing the interests of the Federal Government, in litigation conducted, in whole or in part, on behalf of the United States (e.g., Medical Care Recovery Act claims, affirmative claims, or subpoenas issued by, or concurred in by, Government counsel when the United States is a party), but the regulation does apply to an action brought under the qui tam provisions of the False Claims Act in which a private party

brings an action in the name of the United States but in which the Department of Justice either has not yet determined to intervene in the litigation or has declined to intervene;

(4) As part of the assistance required by the Defense Industrial Personnel Security Clearance Review Program under DOD Directive 5220.6[2];

(5) Release of copies of Manual of the Judge Advocate General (JAGMAN) investigations, to the next of kin (or their representatives) of deceased or incompetent naval personnel;

(6) Release of information by DON personnel to counsel retained on their behalf for purposes of litigation, unless that information is classified, privileged, or otherwise protected from disclosure (in the latter event, compliance with 32 CFR part 97 and this part is required);

(7) Cases involving garnishment orders for child support and/or alimony. The release of official information in these cases is governed by 5 CFR 581 and SECNAVINST 7200.16[3], or;

(8) Release of information to Federal, state, and local prosecuting and law enforcement authorities, in conjunction with an investigation conducted by a DOD component or DON criminal investigative organization.

(h) This part does not preclude official comment on matters in litigation in appropriate cases.

(i) The DOD General Counsel may notify DOD components that DOD will assume primary responsibility for coordinating all litigation requests for demands for official DOD information or testimony of DOD personnel in litigation involving terrorism, espionage, nuclear weapons, and intelligence sources or means. Accordingly, determining officials who receive requests pertaining to such litigation shall notify the Associate General Counsel (Litigation) or the Deputy Assistant Judge Advocate General (International Law or General Litigation) who shall consult and coordinate with DOD General Counsel prior to any response to such requests.

(j) *Relationship with Federal Rules of Procedure.* The requirements imposed by this instruction are intended, among other things, to provide adequate notice to DON regarding the scope of proposed discovery. This will assure that certain DON information, which properly should be withheld, is not inadvertently released in response to a litigation request or demand, including a subpoena or other request for discovery issued under Federal rules of procedure. When the United States is a party to Federal litigation and the party opponent uses discovery methods (e.g., request for interrogatories and admissions, depositions) set forth in Federal rules of procedure, the Judge Advocate General or General Counsel, in consultation with representatives of the Department of Justice or the cognizant United States Attorney, may determine whether the requirement for a separate written request in accordance with § 725.7 should be waived. Even if this requirement is waived, however, DON personnel who are subpoenaed to testify still will be required to obtain the written permission described in § 725.2.

§ 725.6 Authority to determine and respond.

(a) *Matters proprietary to DON.* If a litigation request or demand is made of DON personnel for official DON or DOD information or for testimony concerning such information, the individual to whom the request or demand is made will immediately notify the cognizant DON official designated in § 725.6(c) and (d), who will determine availability and respond to the request or demand.

(b) *Matters proprietary to another DOD component.* If a DON activity receives a litigation request or demand for official information originated by another DOD component or for non-DON personnel presently or formerly assigned to another DOD component, the DON activity will forward appropriate portions of the request or demand to the DOD component originating the information, to the components where the personnel are assigned, or to the components where the personnel were formerly assigned, for action under 32 CFR part 97. The forwarding DON activity will also notify the requester and court (if appropriate) or other authority of its transfer of the request or demand.

(c) *Litigation matters to which the United States is, or might reasonably become, a party.* Examples of such instances include suits under the Federal Tort Claims Act, Freedom of Information Act, Medical Care Recovery Act, Tucker Act, and suits against Government contractors where the contractor may interplead the United States or seek indemnification from the United States for any judgment paid, e.g., aviation contractors or asbestos matters. Generally, a suit in which the plaintiff is representing the interests of the United States under the Medical Care Recovery Act is not a litigation matter to which the United States is, or might reasonably become, a party. Determining authorities, if in doubt whether the United States is likely to become a party to the litigation, should seek guidance from representatives of the Offices of the Judge Advocate General or General Counsel. The Judge Advocate General and the General Counsel have the authority to determine whether a litigation request should be forwarded to them, or retained by a determining authority, for resolution.

(1) Litigation requests regarding matters assigned to the Judge Advocate General of the Navy under Navy Regulations, art. 0331 (1990)[4], shall be referred to the Deputy Assistant Judge Advocate General (DAJAG) for General Litigation, 200 Stovall Street, Alexandria, VA 22332-2400, who will respond for the Judge Advocate General or transmit the request to the appropriate Deputy Assistant Judge Advocate General for response.

(2) Litigation requests regarding matters assigned to the General Counsel of the Navy under Navy Regs., art. 0327 (1990)[5], shall be referred to the cognizant Command Counsel under, and subject to, limitations set forth in § 725.6(d)(2). That Command Counsel may either respond or refer the matter for action to another office. Requests involving asbestos litigation shall be referred to the Office of Counsel, Naval Sea Systems Command Headquarters, Personnel and Labor Law Section (Code 00LD), Washington, DC 20362-5101. Matters not clearly within the purview of a particular command counsel shall be referred to Associate General Counsel (Litigation), who may either respond or refer the matter for action to another office.

(3) Matters involving the Armed Services Board of Contract Appeals shall be forwarded to these respective counsel except where the determination may involve the assertion of the deliberative process privilege before that Board. In such an event, the matter shall be forwarded for determination to the Associate General Counsel (Litigation).

(d) *Litigation matters in which the United States is not, and is reasonably not expected to become, a party.* (1) *Matters within the cognizance of the Judge Advocate General.* (i) *Fact witnesses.* Requests to interview, depose, or obtain testimony of any present or former DON personnel as defined in § 725.4(b) about purely factual matters shall be forwarded to the Navy or Marine Corps officer exercising general court-martial jurisdiction (OEGCMJ) in whose chain of command the prospective witness or requested documents lie. That determining authority will respond for

[2] See footnote 1 to § 725.1.
[3] See footnote 1 to § 725.1.
[4] See footnote 1 to § 725.1.
[5] See footnote 1 to § 725.1.

the Judge Advocate General under criteria set forth in § 725.8.

(A) If the request pertains to personnel assigned to the Office of the Chief of Naval Operations, the Office of the Vice Chief of Naval Operations, or an Echelon 2 command located in the Washington, DC, area, it shall be forwarded to that office which will likewise respond for the Judge Advocate General under the criteria set forth in § 725.8.

(B) If a request pertains to Marine Corps personnel assigned to Headquarters Battalion, Headquarters Marine Corps, or to other Marine Corps commands located in the Washington, DC, area, it shall be forwarded to the Commandant of the Marine Corps (JAR), Headquarters, U.S. Marine Corps, Washington, DC 20380-0001, which will respond for the Judge Advocate General under criteria set forth in § 725.8.

(C) Nothing here shall prevent a determining authority from referring requests or demands to another determining authority better suited under the circumstances to determine the matter and respond, but the requester shall be notified of the referral. Further, each determining authority specified in this paragraph may further delegate his or her decisional authority to a principal staff member, staff judge advocate, or legal advisor.

(D) In the alternative, the requester may forward the request to the Deputy Assistant Judge Advocate General (General Litigation), who may refer the matter to another determining authority for response, and so notify the requester.

(ii) *Visits and views.* A request to visit a DON activity, ship, or unit, or to inspect material or spaces located there will be forwarded to one of the authorities stated in § 725.6(d)(1)(i), who will respond on behalf of the Judge Advocate General. Action taken by that authority will be coordinated with the commanding officer of the activity, ship, or unit at issue, or with his or her staff judge advocate (if applicable). The military mission of the unit shall normally take precedence over any visit or view. The commanding officer may independently prescribe reasonable conditions as to time, place, and circumstances to protect against compromise of classified or privileged material, intrusion into restricted spaces, and unauthorized photography.

(iii) *Documents.* 10 U.S.C. 7861 provides that the Secretary of the Navy has custody and charge of all DON books, records, and property. Under DOD Directive 5530.1[6], the Secretary of the Navy's sole delegate for service of process is the General Counsel of the Navy. See 32 CFR 257.5(c). All process for such documents shall be served upon the General Counsel at the Department of the Navy, Washington, DC, 20350-1000, who will refer the matter to the proper delegate for action. Matters referred to the Judge Advocate General will normally be provided to the determining authorities described in § 725.6(c) and (d). That authority will respond per criteria in § 725.8. Process not properly served on the General Counsel is insufficient to constitute a legal demand and shall be processed as a request by counsel. Requests for documents maintained by the National Personnel Records Center will be determined by the official provided in § 725.8(b)(2)(iii).

(iv) *Expert or opinion requests.* Any request for expert or opinion consultations, interviews, depositions, or testimony will be referred to the Deputy Assistant Judge Advocate General (General Litigation) who will respond for the Judge Advocate General, or transmit the request to the appropriate DAJAG for response. Matters not clearly within the purview of a particular Deputy Assistant Judge Advocate General will be retained by the Deputy Assistant Judge Advocate General (General Litigation), who may either respond or refer the matter to another determining authority for response.

(2) *Matters within the cognizance of the General Counsel of the Navy.* (i) *Matters not involving issues of Navy policy.* Such matters shall be forwarded for determination to the respective counsel for Naval Sea Systems Command, Naval Air Systems Command, Naval Supply Systems Command, Naval Facilities Engineering Command, Space and Naval Warfare Command, Office of the Navy Comptroller, Commandant of the Marine Corps, Office of the Chief of Naval Research, Military Sealift Command, Office of Civilian Personnel Policy, or to the Assistant General Counsel (Acquisition), depending upon who has cognizance over the information or personnel at issue.

(ii) *Matters involving issues of Navy policy.* Such matters shall be forwarded for determination to the General Counsel of the Navy via the Associate General Counsel (Litigation).

(iii) *Matters involving asbestos litigation.* Such matters shall be forwarded to the Office of Counsel, Naval Sea Systems Command Headquarters, Personnel and Labor Law Section (Code 00LD), Washington, DC 20362-5101.

(3) *Matters not clearly within the cognizance of either the Judge Advocate General or the General Counsel.* Such matters may be sent to the Deputy Assistant Judge Advocate General (General Litigation) or the Associate General Counsel (Litigation), who will, in consultation with the other, determine the appropriate authority to respond to the request.

§ 725.7 Contents of a proper request or demand.

(a) *Routine requests.* If official information is sought, through testimony or otherwise, a detailed written request must be submitted to the appropriate determining authority far enough in advance to assure an informed and timely evaluation of the request, and prevention of adverse effects on the mission of the command or activity that must respond. The determining authority shall decide whether sufficient information has been provided by the requester. Absent independent information, the following data is necessary to assess a request.

(1) *Identification of parties, their counsel and the nature of the litigation.* (i) Caption of case, docket number, court.

(ii) Name, address, and telephone number of all counsel.

(iii) The date and time on which the documents, information, or testimony sought must be produced; the requested location for production; and, if applicable, the estimated length of time that attendance of the DON personnel will be required.

(2) *Identification of information or documents requested.* (i) A description, in as much detail as possible, of the documents, information, or testimony sought, including the current military service, status (active, separated, retired), social security number, if known, of the subject of the requested pay, medical, or service records;

(ii) The location of the records, including the name, address, and telephone number, if known, of the person from whom the documents, information, or testimony is sought; and

(iii) A statement of whether factual, opinion, or expert testimony is requested (see §§ 725.4(c) and 725.8(b)(3)(ii)).

(3) *Description of why the information is needed.* (i) A brief summary of the facts of the case and the present posture of the case.

[6] See footnote 1 to § 725.1.

(ii) A statement of the relevance of the matters sought to the proceedings at issue.

(iii) If expert or opinion testimony is sought, an explanation of why exceptional need or unique circumstances exist justifying such testimony, including why it is not reasonably available from any other source.

(b) *Additional considerations.* The circumstances surrounding the underlying litigation, including whether the United States is a party, and the nature and expense of the requests made by a party may require additional information before a determination can be made. Providing the following information or stipulations in the original request may expedite review and eliminate the need for additional correspondence with the determining authority.

(1) A statement of the requester's willingness to pay in advance all reasonable expenses and costs of searching for and producing documents, information, or personnel, including travel expenses and accommodations (if applicable);

(2) In cases in which deposition testimony is sought, a statement of whether attendance at trial or later deposition testimony is anticipated and requested. A single deposition normally should suffice;

(3) An agreement to notify the determining authority at least 10 working days in advance of all interviews, depositions, or testimony. Additional time for notification may be required where the witness is a DON health care provider or where the witness is located overseas;

(4) An agreement to conduct the deposition at the location of the witness, unless the witness and his or her commanding officer or cognizant superior, as applicable, stipulate otherwise;

(5) In the case of former DON personnel, a brief description of the length and nature of their duties while in DON employment, and a statement of whether such duties involved, directly or indirectly, the information or matters as to which the person will testify;

(6) An agreement to provide free of charge to any witness a signed copy of any written statement he or she may make, or, in the case of an oral deposition, a copy of that deposition transcript, if taken by a stenographer, or a video tape copy, if taken solely by video tape, if not prohibited by applicable rules of court;

(7) An agreement that if the local rules of procedure controlling the litigation so provide, the witness will be given an opportunity to read, sign, and correct the deposition at no cost to the witness or the Government;

(8) A statement of understanding that the United States reserves the right to have a representative present at any interview or deposition; and

(9) A statement that counsel for other parties to the case will be provided with a copy of all correspondence originated by the determining authority so they may have the opportunity to submit any related litigation requests and participate in any discovery.

(c) *Response to deficient requests.* A letter request that is deficient in providing necessary information may be returned to the requester by the determining authority with an explanation of the deficiencies and a statement that no further action will be taken until they are corrected. If a subpoena has been received for official information, counsel should promptly determine the appropriate action to take in response to the subpoena. See § 725.9(g).

(d) *Emergency requests.* Written requests are generally required by 32 CFR part 97.

(1) The determining authority, identified in § 725.6, has discretion to waive that requirement in the event of a bona fide emergency, under conditions set forth here, which were not anticipated in the course of proper pretrial planning and discovery. Oral requests and subsequent determinations should be reserved for instances where factual matters are sought, and compliance with the requirements of a proper written request would result in the effective denial of the request and cause an injustice in the outcome of the litigation for which the information is sought. No requester has a right to make an oral request and receive a determination. Whether to permit such an exceptional procedure is a decision within the sole discretion of the determining authority, unless overruled by the General Counsel or the Judge Advocate General, as appropriate.

(2) If the determining authority concludes that the request, or any portion of it, meets the emergency test, he or she will require the requester to agree to the conditions set forth in § 725.7(a). The determining authority will then orally advise the requester of the determination, and seek a written confirmation of the oral request. Thereafter, the determining authority will make a written record of the disposition of the oral request including the grant or denial, circumstances requiring the procedure, and conditions to which the requester agreed.

(3) The emergency procedure should not be utilized where the requester refuses to agree to the appropriate conditions set forth in § 725.7(a) or indicates unwillingness to abide by the limits of the oral grant, partial grant, or denial.

§ 725.8 Considerations in determining to grant or deny a request.

(a) *General considerations.* In deciding whether to authorize release of official information, or the testimony of DON personnel concerning official information (hereafter referred to as "the disclosure" under a request conforming with the requirements of § 725.7, the determining authority shall consider the following factors:

(1) The DON policy regarding disclosure in § 725.2;

(2) Whether the request or demand is unduly burdensome or otherwise inappropriate under applicable court rules;

(3) Whether disclosure, including release in camera (i.e., to the judge or court alone), is appropriate under procedural rules governing the case or matter in which the request or demand arose;

(4) Whether disclosure would violate or conflict with a statute, executive order, regulation, directive, instruction, or notice;

(5) Whether disclosure, in the absence of a court order or written consent, would violate 5 U.S.C. 552, 552a;

(6) Whether disclosure, including release in camera, is appropriate or necessary under the relevant substantive law concerning privilege (e.g., attorney-client, attorney work-product, or physician-patient in the case of civilian personnel);

(7) Whether disclosure, except when in camera (i.e., before the judge alone) and necessary to assert a claim of privilege, would reveal information properly classified under the DOD Information Security Program under DOD 5200.1-R[7], withholding of unclassified technical data from public disclosure following OPNAVINST 5510.161; privileged Naval Aviation Safety Program information (OPNAVINST 3750.6Q (NOTAL))[8], or other matters exempt from unrestricted disclosure under 5 U.S.C. 552, 552a;

(8) Whether disclosure would unduly interfere with ongoing law enforcement proceedings, violate constitutional rights, reveal the identity of an intelligence source or source of confidential information, conflict with

[7] See footnote 1 to § 725.1.

[8] See footnote 1 to § 725.1.

U.S. obligations under international agreement, or be otherwise inappropriate under the circumstances;

(9) Whether attendance of the requested witness at deposition or trial will unduly interfere with the military mission of the command; and

(10) Whether, in a criminal case, requiring disclosure by a defendant of detailed information about the relevance of documents or testimony as a condition for release would conflict with the defendant's constitutional rights.

(b) *Specific considerations.* (1) *Documents, interviews, depositions, testimony, and views (where the United States is, or may become, a party).* All requests pertaining to such matters shall be forwarded to the Judge Advocate General or the General Counsel, as appropriate under § 725.6(c).

(2) *Documents (where the United States is not, and is reasonably not expected to become a party).* (i) *Unclassified Navy and Marine Corps records.* Where parties or potential parties desire unclassified naval records in connection with a litigation matter, the subpoena duces tecum or court order will be served, under 32 CFR 257.5(c), upon the General Counsel of the Navy, along with a written request complying with § 725.7.

(A) If the determining authority to whom the matter is referred determines to comply with the order or subpoena, compliance will be effected by transmitting certified copies of records to the clerk of the court from which process issued. If, because of an unusual circumstance, an original record must be produced by a naval custodian, it will not be removed from the custody of the person producing it, but copies may be placed in evidence.

(B) Upon written request of one or more parties in interest or their respective attorneys, records which would be produced in response to a court order signed by a judge as set forth above may be furnished without a court order, but only upon a request complying with § 725.7 and only when such records are not in a "system of records" as defined by the Privacy Act (5 U.S.C. 552a). In determining whether a record not contained in a "system of records" will be furnished in response to a Freedom of Information Act (FOIA) request, SECNAVINST 5720.42E[9] controls.

(C) Generally, a record in a Privacy Act "system of records" may not be released under a litigation request except with the written consent of the person to whom the record pertains or in response to a court order signed by a judge. See SECNAVINST 5211.5C[10] and 5 U.S.C. 552, 552a for further guidance.

(D) Whenever compliance with a court order or subpoena duces tecum for production of DON records is denied for any reason, the subpoena or court order and complete copies of the requested records will be forwarded to the appropriate Deputy Assistant Judge Advocate General (General Litigation) or the Associate General Counsel (Litigation) for action, and the parties to the suit notified in accordance with this part.

(ii) *Classified Navy and Marine Corps records.* Any consideration of release of classified information for litigation purposes, within the scope of this instruction, must be coordinated within the Office of the Chief of Naval Operations (OP-09N) per OPNAVINST 5510.1H.[11]

(iii) *Records in the custody of the National Personnel Records Center.* Court orders or subpoenas duces tecum demanding information from, or production of, service or medical records of former Navy and Marine Corps personnel in the custody of the National Personnel Records Center will be served upon the Director, National Personnel Records Center, 9700 Page Boulevard, St. Louis, MO 63132. If records responsive to the request are identified and maintained at the National Personnel Records Center, that Center shall make appropriate certified (authenticated) copies of the information requested. These copies will then be forwarded, along with the request, in the case of Navy personnel, to Chief, Bureau of Naval Personnel (Pers-06), Washington, DC 20370-5000, or his delegate, who will respond. In the case of Marine Corps personnel, the copies and request will be sent to the Commandant of the Marine Corps (MMRB-10), Quantico, VA 22134-0001, who will respond. Those requests that do not constitute legal demands will be refused by the Director, National Personnel Records Center, and written guidance provided to the requester.

(iv) *Medical and other records of civilian employees.* Production of medical certificates or other medical reports concerning civilian employees is controlled by Federal Personnel Manual, chapter 294 and chapter 339.1-4.[12] Records of civilian employees, other than medical records, may be produced upon receipt of a court order and a request complying with § 725.7, provided no classified or for official use only information, such as loyalty or security records, are involved. Disclosure of records relating to compensation benefits administered by the Office of Workers' Compensation Programs of the Department of Labor are governed by Secretary of the Navy Instruction 5211.5C (Privacy Act implementation) and Secretary of the Navy Instruction 5720.42E (Freedom of Information Act implementation), as appropriate. Where information is furnished per this subparagraph in response to a court order and proper request, certified copies rather than originals should be furnished. Where original records must be produced because of unusual circumstances, they may not be removed from the custody of the official producing them, but copies may be placed on the record.

(v) *JAGMAN investigations (other than to next of kin).* The Deputy Assistant Judge Advocate General having cognizance over the records at issue for litigation or prospective litigation purposes may release the records if a complete release will result. The Assistant Judge Advocate General (Civil Law) will make determinations concerning the release of the records specified in this subparagraph if a release of less than the complete requested record will result. A release to next of kin of incompetent or deceased DON personnel or their representatives is exempt from these requirements and this part.

(vi) *Affirmative claims files.* Affirmative claims files (including Medical Care Recovery Act files), except to the extent they contain copies of JAGMAN investigations prepared under the Manual of the Judge Advocate General, or classified or privileged information, may be released by the commanding officer of the Naval Legal Service Office having cognizance over the claim at issue, without compliance with this instruction, to: insurance companies to support claims; to civilian attorneys representing injured service persons, their dependents, and the Government's interests; and to other DOD components. When a request for production involves material related to claims in favor of the Government, either the cognizant Command Counsel or the Naval Legal Service Office having territorial responsibility for the area should be notified.

(vii) *Accounting for disclosures from "systems of records."* When compliance with a litigation request or demand for production of records is appropriate, or when release of records is otherwise authorized, and records contained in a "system of records," are released, the

[9] See footnote 1 to § 725.1.

[10] See footnote 1 to § 725.1.

[11] See footnote 1 to § 725.1

[12] See footnote 1 to § 725.1.

releasing official will consult Secretary of the Navy Instruction 5211.5C regarding disclosure accounting requirements.

(viii) *Pay records.* Official pay records of active-duty, reserve, retired, or former Navy members should be requested from Director, Defense Finance and Accounting Service (DFAS), Cleveland Center, Anthony J. Celebrezze Federal Building, Cleveland, OH 44199-2055. Official pay records of active-duty, reserve, retired, or former Marines should be requested from Director, Defense Finance and Accounting Service, Kansas City Center (Code G), Kansas City, MO 64197-0001.

(3) *Interviews, depositions, and testimony (where the United States is not, and is reasonably not expected to become, a party).* (i) *Factual matters.* DON policy favors disclosure of factual matters when disclosure does not violate the criteria stated in this section. Distinguishing between factual matters and expert or opinion matters (where DON policy favors non-disclosure) requires careful analysis. Opinion matters are defined at § 725.4(c).

(ii) *Expert, opinion, or policy matters.* Such matters are to be determined, under the delegation in § 725.6, by the cognizant Deputy Assistant Judge Advocate General or by General Counsel. General considerations to identify expert or opinion testimony are in § 725.4(c). DON personnel shall not provide, with or without compensation, opinion or expert testimony concerning official information, subjects, or activities, except on behalf of the United States or a party represented by the Department of Justice. Upon a showing by the requester of exceptional need or unique circumstances, and that the anticipated testimony will not be adverse to the interests of the DOD or the United States, the appropriate DON official designated in § 725.6, may grant, in writing, special authorization for DON personnel to appear and testify at no expense to the United States. In determining whether exceptional need or unique circumstances exist, the determining official should consider whether such expert or opinion testimony is available to the requester from any other source. The burden of demonstrating such unavailability, if any, is solely upon the requester.

(iii) *Visits and views (where the United States is not, and is reasonably not expected to become, a party).* Such disclosures are normally factual in nature and should not be accompanied by interviews of personnel unless separately requested and granted. The authority of the commanding officer of the activity, ship, or unit at issue is not limited by this part. Accordingly, he or she may prescribe appropriate conditions as to time, place, and circumstances (including proper restrictions on photography).

(iv) *Non-DOD information.* A request for disclosure under this part, particularly through the testimony of a witness, may involve both official information and non-DOD information (e.g., in the case of a person who has acquired additional and separate knowledge or expertise wholly apart from Government employment). Determining whether or not official information is at issue is within the purview of the determining authority, not the requester. A requester's contention that only non-DOD information is at issue is not dispositive. The requester must still comply with this instruction to support that contention. If non-DOD information is at issue in whole or in part, the determining authority shall so state in the written determination described in § 725.9. He or she shall make no other determination regarding that non-DOD information.

§ 725.9 Action to grant or deny a request.

(a) The process of determining whether to grant or deny a request is not an adversary proceeding. This part provides guidance for the operation of DON only and is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable at law against the United States, DOD, or DON.

(b) 32 CFR part 97 and this part apply to testimony by former naval personnel and former civilian employees of DON. A proper request must be made, under § 725.7, to obtain testimony by former personnel regarding official DOD information. However, this part is not intended to place unreasonable restraints upon the post-employment conduct of such personnel. Accordingly, requests for expert or opinion testimony by such personnel will normally be granted unless that testimony would constitute a violation of the U.S. Code (e.g., 18 U.S.C. 201 et seq.), conflict with pertinent regulations (e.g., Secretary of the Navy Instruction 5370.2H), or disclose properly classified or privileged information.

(c) A determination to grant or deny should be made as expeditiously as possible to provide the requester and the court with the matter at issue or with a statement of the reasons for denial. The decisional period should not exceed 10 working days from receipt of a complete request complying with the requirements of § 725.7, absent exceptional or particularly difficult circumstances. The requester should also be informed promptly of the referral of any portion of the request to another authority for determination.

(d) Except as provided in § 725.7(d), a determination to grant or deny shall be in writing.

(e) The determination letter should respond solely to the specific disclosures requested, stating a specific determination on each particular request. When a request is denied in whole or in part, a statement of the reasons for denial should be provided to fully inform a court of the reasons underlying the determination if it is challenged.

(f) A copy of any denial, in whole or in part, of a request, should be forwarded to the cognizant Deputy Assistant Judge Advocate General or the Associate General Counsel (Litigation), as appropriate. Such notification is likewise appropriate when the litigation request has been treated under 5 U.S.C. 552, 552a and § 725.5(f). Telephonic notification is particularly appropriate where a judicial challenge or contempt action is anticipated.

(g) In cases in which a subpoena has been received and the requester refuses to pay fees or otherwise comply with the guidance and requirements imposed by this part, or if the determining authority declines to make some or all of the subpoenaed information available, or if the determining authority has had insufficient time to complete its determination as to how to respond to the request, the determining authority must promptly notify the General Litigation Division of the Office of the Judge Advocate General or the Navy Litigation Office of the Office of the General Counsel, which offices will determine, in consultation with the Department of Justice, the appropriate response to be made to the tribunal which issued the subpoena. Because the Federal Rules of Civil Procedure require that some objections to subpoenas must be made either within 10 days of service of the subpoena or on or before the time for compliance, whichever first occurs, and because this will require consultation with the Department of Justice, timely notice is essential.

§ 725.10 Response to requests or demands in conflict with this instruction.

(a) Except as otherwise provided in this paragraph, DON personnel, including former military personnel and civilian employees, shall not produce, disclose, release, comment upon, or testify concerning any official DOD information in response to a litigation

request or demand without prior written approval of the appropriate DON official designated in § 725.6. If a request has been made, and granted, in whole or in part, per 32 CFR part 97 and this part, DON personnel may only produce, disclose, release, comment upon, or testify concerning those matters specified in the request and properly approved by the determining authority designated in § 725.6. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

(b) If, after DON personnel have received a litigation request or demand and have in turn notified the appropriate determining authority described in § 725.6, a response to the request or demand is required before instructions from the responsible official have been received, the responsible authority designated in § 725.6 shall notify the Deputy Assistant Judge Advocate General or Associate General Counsel (Litigation) who has cognizance over the matter. That official will furnish the requester, the court, or other authority that the request or demand is being reviewed in accordance with this part and seek a stay of the request or demand pending a final determination.

(c) If a court of competent jurisdiction or other appropriate authority declines to stay the effect of the request or demand in response to action taken under § 725.10(b), or if such court or other authority orders that the request or demand must be complied with, notwithstanding the final decision of the appropriate DON official, the DON personnel upon whom the request or demand was made will, if time permits, notify the determining authority of such ruling or order. That authority will notify the Deputy Assistant Judge Advocate General or the Associate General Counsel (Litigation) having cognizance over the matter. After due consultation and coordination with the Department of Justice, as required by the Manual of the Judge Advocate General, that official will determine whether the individual is required to comply with the request or demand and will notify the requester, the court, or other authority accordingly. The witness shall, if directed by the appropriate DON official, respectfully decline to comply with the demand. Legal counsel for the command concerned should accompany and advise DON personnel during any court proceedings involving the foregoing circumstances.

(d) It is expected that all DON actions in the foregoing paragraphs will be taken only after active consultation with the appropriate component of the Department of Justice. Generally, DON personnel will be instructed to decline to comply with a court order only if the Department of Justice commits to represent the DON personnel in question.

§ 725.11 Fees.

(a) *Generally.* Except as provided below, determining authorities shall charge reasonable fees and expenses to parties seeking official DON information or testimony under this instruction. Pursuant to 32 CFR 288.4, 288.10, these fees should include all costs of processing a request for information, including time and material expended. Travel for active duty members summoned as witnesses is governed by Joint Travel Regulations, Vol. I, Chap. 7, pt. E. and Navy Travel Instructions, Chap. 6, pt. E.[13] Travel for civilian personnel summoned as witnesses is governed by the Joint Travel Regulations, Vol. II, Chap. 4, pt. E.[14]

(1) *When DON is a party.* No fees normally shall be charged when the DON is a party to the proceedings, and the activity holding the requested information or employing the witness shall bear the expense of complying with the request.

(2) *When another federal agency is a party.* No fees shall be charged to the requesting agency. Travel and per diem expenses may be paid by the requesting agency, or by the Navy activity to which the requested witness is assigned, subject to reimbursement from the requesting agency.

(3) *When neither DON nor another federal agency is a party.* Fees shall be charged to the requester for time taken from official duties by DON personnel who are authorized to be interviewed, give testimony, or escort persons on views and visits of installations. At the discretion of the cognizant command, DON personnel need not be made available during duty hours unless directed by subpoena. Time which DON personnel spend in court testifying, or waiting to testify on factual matters shall not be charged. Fees should be charged, however, for expert or opinion testimony based upon the witness's education, training, or experience. Testimony by a treating physician called to testify about his personal knowledge of a specific case is considered fact not expert testimony. Fees are payable to the Treasurer of the United States for deposit in the Treasury's miscellaneous receipts. Rates for uniformed personnel are published in NAVCOMPT Notice 7041 series.[15] Pursuant to 32 CFR 288.4, charges for civilian personnel should include the employee's hourly rate of pay, as well as allowances and benefits. Except as provided in § 725.11(b)(4), no funds may be expended for travel or per diem of active duty members when an agency of the Federal Government is not a party. The requesting party is responsible for travel arrangements and funding. Government funding of travel and per diem for civilian employees is authorized.

(b) *Special circumstances.* (1) *Refusal to pay fees.* In cases in which a subpoena has been received and the requester refuses to pay appropriate fees, it may become necessary to request the Department of Justice to take appropriate legal action before the court issuing the subpoena. Determining authorities should consult promptly with the OJAG General Litigation Division or the Navy Litigation Office of the General Counsel if this course of action appears necessary, because some objections to subpoenas must be made either within ten days of service of the subpoena or on or before the time for compliance, whichever first occurs, and because this will require timely consultation with the Department of Justice. If no subpoena has been issued, the determining authority must decide whether to deny the request or, if appropriate, waive the fees.

(2) *Waiver or reduction of fees.* The determining authority may waive or reduce fees pursuant to 32 CFR 288.4, 288.9, provided such waiver or reduction is in the best interest of the DON and the United States. Fee waivers and reductions shall not be routinely granted, or granted under circumstances which might create the appearance that DON favors one party over another.

(3) *Witness fees required by the court.* Witness fees required by the rules of the applicable court shall be paid directly to the witness by the requester. Such amounts are to defray the cost of travel and per diem. In a case where the Government has paid the cost of travel and per diem, the witness shall turn over to his or her supervisor any payment received from a private party to defray the cost of travel that, when added to amounts paid by the Government, exceed the actual cost of travel. The supervisor shall forward the amount turned over by the witness to the Office of the Comptroller of the Navy for appropriate action.

(4) *Exceptional cases.* If neither the DON, nor an agency of the Federal Government is a party, appropriated funds may be used to pay, without reimbursement, travel and per diem of DON personnel who are witnesses in

[13] See footnote 1 to § 725.1.
[14] See footnote 1 to § 725.1.
[15] See footnote 1 to § 725.1.

criminal or civil proceedings, provided, the case is directly related to the Armed Services, or its members, and the Armed Services have a genuine and compelling interest in the outcome.

Dated: January 14, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc 92-1433 Filed 1-21-92; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corp.

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority proposed and the Corporation agreed that the definition of "feed grains" will be revised to include meal from these grains for animal consumption, which will eliminate inequity in the treatment of this meal relative to competing products. The Authority also proposed and the Corporation agreed that the volume discount will be amended as follows: To allow the discount to be based upon commodities shipped from a particular origin, that is a particular country outside of North America and a particular port within North America; that the amount shipped must exceed the five navigation season average by 100,000 tons; and that cargoes subject to new downbound or upbound business refunds not be used in the calculations for volume discounts. This is intended to increase use of this discount and make it more practical.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-0091.

SUPPLEMENTARY INFORMATION: The definition of "feed grains" in section 402.3(g) is amended to include meal from the other types of feed grains for animal consumption. These meal products have been subject to the higher bulk rate even though they compete with other feed grains in feed formulations. The amendment will eliminate this inequity. The volume discount in § 402.11 also is amended as follows: To allow the discount to be based upon commodities shipped from a particular origin, that is a particular country outside of North America and a particular port within North America; to provide that the amount shipped must exceed the five navigation season average by 100,000 tons; and to provide that cargoes subject to new downbound or upbound business refunds not be used in the calculations for volume discounts. The principal purpose of this amendment is to allow rebates under this section to be more effectively available to prospective beneficiaries of volume rebates. By being calculated on the basis of port as well as commodity, it is believed that eligible Seaway users will increase their shipments through the system. In addition, the present volume rebate method can result in increases in shipments from one port being negated by decreases from another port. It is believed that the amendment resolves this situation.

No comments were received in response to the September 19, 1991 (56 FR 47431), Notice of Proposed Rulemaking. An exchange of diplomatic notes between Canada and the United States approving this amendment occurred on December 20, 1991.

Regulatory Evaluation

This final rule involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This final rule has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and this final rule is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this final rule will not only have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This final rule does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends part 402—Tariff of Tolls (33 CFR part 402) as follows:

PART 402—[AMENDED]

1. The authority citation for 33 CFR part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981-990.

2. In § 402.3, paragraph (g) is revised to read as follows:

§ 402.3 Interpretation.

* * * * *

(g) Feed grains means barley, corn, oats, flaxseed, rapeseed, soybeans, field crop seeds, grain screenings, and meal from these grains for animal consumption;

* * * * *

3. Section 402.11 is revised to read as follows:

§ 402.11 Volume discount.

(a) A volume discount shall be granted to carriers at the end of the 1991, 1992, and 1993 navigation seasons after payment of the full tolls specified in the schedule under the tariff in § 402.8 of this part if shipments of a commodity from a particular origin exceed the average amount of shipments from that origin for that commodity in the Seaway during the five navigation seasons immediately preceding the season in which the volume discount is applied by an amount of at least 100,000 tons. The volume discount shall be equal to a 20 percent reduction of the portion of the composite toll related to charges per metric ton of cargo paid for the shipments that surpass the average for the preceding five seasons. The volume discount shall be applied on a pro rata basis to all carriers of the particular commodity from that origin within one navigation season.

(b) For the purposes of this section, "origin" means the country at which the cargo is loaded, except if the cargo is loaded in North America, "origin" means the country at which the cargo is loaded.

(c) If the conditions in paragraphs (a) and (b) of this section are met, a volume discount shall be granted with respect to the following commodities:

(1) Grain;

(2) Other agricultural products;

(3) Iron ore;
(4) Other mine products;
(5) Coal;
(6) Coke;
(7) Petroleum products;
(8) Chemicals;
(9) Stone;
(10) Salt;
(11) Other bulk cargo;
(12) Iron and steel;
(13) Other general cargo;
(14) Containers.

(d) Cargoes having been the subject of a new downbound or new upbound business refund shall be excluded from the statistics used for the calculation of volume discounts.

(e) Notwithstanding anything in this Tariff (33 CFR part 402), a carrier shall not obtain, at the end of a navigation season, both a volume discount and a new downbound or upbound business refund with respect to the same shipment, but a carrier shall obtain the greater of the said discount or refund.

Issued at Washington, DC on January 13, 1992.

The Saint Lawrence Seaway Development Corporation.

Stanford E. Parris,

Administrator.

[FR Doc. 92-1330 Filed 1-21-92; 8:45 am]

BILLING CODE 4910-61-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA5-1-5380; FRL-4039-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Iowa Department of Natural Resources (IDNR) has submitted revisions to its open burning rule, 23.2. The revisions approve exemptions for the burning of trees and agricultural structures. EPA is taking final action to approve these revisions in the Iowa State Implementation Plan (SIP).

DATES: This action will be effective March 23, 1992 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the state submittal for this action are available for public inspection during normal business hours at: The Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Environmental Protection Division, Iowa Department of Natural Resources, Henry A. Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603 (FTS 276-7603).

SUPPLEMENTARY INFORMATION: On October 3, 1991, the Iowa Department of Natural Resources submitted a revision to its SIP which includes revisions to Iowa Pollution Control Rule 23.2—Open burning, Chapter 23—Emission Standards For Contaminants. This revision was effective in the state on September 12, 1990.

The minor rule revisions consisted of three changes to rule 23.2. First, 23.2(3) Exemptions, paragraph b—diseased trees, was replaced in its entirety with language that exempts from the open burning prohibition trees and tree trimmings not originating on the premises, provided the burning is controlled and operated by a local governmental entity. Old paragraph 23.2(3)b exempted only diseased trees. Diseased trees would still be exempt from the open burning prohibition under the revised rule. The exemption would not be permitted in major urban areas of the state.

Second, rule 23.2(3) is revised by adding a new paragraph "i" to exempt the open burning of agricultural structures in rural areas. The rule states this exemption is applicable only if, among other things, the agricultural structures are outside of cities or towns, have had all chemicals and asphalt shingles removed, and permission is obtained from the local fire chief in advance of burning. Also, rubber tires shall not be used to ignite the structures. A definition of "agricultural structures" is provided.

Third, rule 23.2(4)—Unavailability of exemptions in certain areas, was revised to be consistent with revised subrule 23.2(3)b pertaining to trees or tree trimmings, rather than diseased trees.

EPA believes that these rule revisions will not cause or contribute to any violation of the National Ambient Air Quality Standard, especially with respect to particulate matter. There are no nonattainment areas for particulate matter in Iowa. Furthermore, the open burning is restricted to rural areas where ambient particulate levels are well within the standard.

The state provided proper public notice of the proposed revisions and made available the opportunity for public comment and hearing. The revised rule was adopted by the Iowa Environmental Protection Commission and became effective on September 12, 1990.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective March 23, 1992 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective March 23, 1992.

EPA Action

EPA is taking final action to approve a revision to Iowa rule 23.2 pertaining to open burning.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), EPA certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by March 23, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

November 25, 1991.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR part 52 is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(56) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(56) Revised Chapter 23, rule 23.2, submitted on October 3, 1991, incorporates changes to the open burning rule.

(i) Incorporation by reference.

(A) Amendment to Chapter 23, "Emission Standards for Contaminants, "Iowa Administrative Code, subrule 23.2, adopted by the Environmental Protection Commission, effective September 12, 1990.

(ii) Additional information.

(A) Letter from Allan Stokes, IDNR, to William Spratlin, dated October 3, 1991.

[FR Doc. 92–1413 Filed 1–21–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 5

RIN 0905–AC68

Criteria for Designation of Mental Health Professional Shortage Areas

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the existing regulations governing the criteria for designation of health manpower shortage areas, or HMSAs (now health professional shortage areas, or HPSAs; name changed by Public Law 101–597, the National Health Service Corps Revitalization Amendments of 1990) under section 332 of the Public Health Service Act. Specifically, this amendment revises the existing criteria for designation of HMSAs having shortages of psychiatric manpower, transforming them into criteria for designation of HPSAs having shortages of mental health professionals, to take into account not only psychiatrists but also mental health service providers other than psychiatrists. The intended effect of this amendment is to more accurately assess the supply of mental health service providers when making shortage area determinations. This notice also summarizes the comments received by the Department on the Notice of Proposed Rulemaking published on August 8, 1989, which set forth the proposed methodology for making this and other changes to the HMSA criteria. It also formally changes "HMSA" to "HPSA" throughout the regulation, to conform with Public Law 101–597.

EFFECTIVE DATE: This rule will be effective upon publication.

FOR FURTHER INFORMATION CONTACT: Richard C. Lee, Director, Office of Shortage Designation, Bureau of Health Care Delivery and Assistance, Health Resources and Service Administration, Parklawn Building Room 4–101, 5600 Fishers Lane, Rockville, Maryland 20857 (telephone: 301–443–6932).

SUPPLEMENTARY INFORMATION: Section 332 of the Public Health Service Act, as amended by Public Law 101–597, requires the Secretary to establish, by regulation, criteria for the designation of Health Professional Shortage Areas (HPSAs). The regulations setting forth these criteria are codified at 42 CFR part 5. On August 8, 1989, the Department published a Notice of Proposed Rulemaking (NPRM) which proposed certain changes to the then-HMSA criteria, and requested public comments. The NPRM proposed to revise appendix C of the existing regulations, until now entitled "Criteria for Designation of Areas having Shortages of Psychiatric Manpower," to take into account clinical (or "health-service-provider") psychologists, clinical social workers and psychiatric nurse specialists, as well as psychiatrists, in the designation of mental health manpower shortage areas. It also proposed a new minimum size-of-shortage criterion for primary care, dental and mental health HMSAs.

Seventy letters were received commenting on various aspects of the proposed changes to the HMSA criteria. The Secretary would like to thank the respondents for the quality and thoroughness of their comments. As a result of these comments, the Department has reconsidered its position on a number of issues raised and made modifications accordingly. The comments and the Department's responses are discussed below, arranged according to the subjects raised.

Minimum Size-of-Shortage Criterion

Fifty of the seventy letters received dealt with the one proposed change that applied not only to the psychiatric or mental health HMSA criteria, but also to the primary medical care and dental HMSA criteria, i.e. the imposition of a new minimum size-of-shortage criterion. Under the proposed change, a computed need for at least 1.0 additional full-time-equivalent (FTE) practitioner (to lower the population-to-practitioner ratio to the minimum level already required by the criteria for designation) would have to exist within the area or population under consideration for HMSA designation, unless the area or population was already served by less than 0.2 FTE practitioners.

As many of the commentors point out, this change would eliminate about ⅓ of all primary medical care HMSA designations. The NPRM stated that most of the affected primary care and dental HMSAs would have had very low priorities for placement and, therefore, were already unlikely to receive National Health Service Corps (NHSC) personnel. However, as a large number of the commenters point out, many Federal and State programs other than the NHSC are dependent on HMSA designations. In the areas that would lose their designations, both existing NHSC sites and these other programs would be in jeopardy. According to the House and Senate Rural Health Caucus and other commentors, this change would have a severe negative impact on rural and frontier areas. Other commentors stated that this change would also artificially reduce the number of HMSAs, implying a decline in the need for health professionals when problems with recruitment and retention are, in fact, a major current concern for community health centers in HMSAs.

Some commentors suggested that the proposed change was an effort to solve a placement problem—too many areas requesting the few available NHSC practitioners—with a change to the shortage criteria that would reduce the number of HMSAs. One commentor expressed concern that population group designations would be particularly jeopardized by the proposed size-of-shortage change because they have a smaller population base.

The Department recognizes and appreciates the concerns raised about

the proposed minimum size-of-shortage criterion, particularly that the proposed change could negatively affect areas' eligibility for programs other than the NHSC. Therefore, the Department is withdrawing this particular proposed amendment to the HMSA criteria. However, we expect that the size of the shortage will continue to be an important NHSC placement factor.

Proposed Change From Psychiatric to Mental Health Professional Shortage Criteria

At least five commentors stated simply that they supported the change from psychiatric shortage criteria to mental health professional shortage criteria, including clinical psychologists, clinical social workers, and psychiatric nurse specialists. Others expressed support for the general concept and questioned some of the specifics; their comments are dealt with below. Several others expressed support for this change but concentrated their comments on their opposition to the proposed size-of-shortage criterion.

Three commentors, including the American Psychiatric Association (APA), stated the opinion that mental health professionals other than psychiatrists should not be included due to their lack of skills in biological/medical fields. According to these commentors, such professionals can do psychotherapy but cannot recognize physical/medical components of mental health problems. The Department rejects the contention that only psychiatrists should be included as mental health professionals. The proposed methodology gives extra weight to psychiatrists because of their unique position as physicians.

The APA objected to a statement in the NPRM's preamble suggesting APA support of the proposed revisions, and stated that the APA strongly opposes transforming the existing psychiatric shortage criteria into criteria for mental health professional shortages, including non-physician practitioners. However, an earlier Health Resources and Services Administration study of how such a revision might be made was, in fact, coordinated both with the APA and with associations representing the other mental health professional groups. At that time, there seemed to be a consensus that there is overlap in roles between the various types of mental health professionals and that, if the overlap could be properly quantified, all the associations involved could support the use of mental health professional shortage criteria. Unfortunately, a proposed survey which was developed to exactly quantify this overlap in functions did not achieve clearance and therefore was not carried out. While the methodology used in the NPRM may be less satisfactory, the Department believes it represents a clear improvement over the previous psychiatrist-only approach, and, therefore, will retain it as proposed.

According to some commentors, the term "counseling" should have been included instead of or as well as "psychotherapy" in the description of the overlap in functions of the core mental health service providers. We agree. However, this would not affect the regulations themselves.

Types of Mental Health Professionals Included

One commentor noted that master's level psychologists were omitted from the definition of the "core" mental health service professionals, although social workers and nurses trained at the master's level were included. This commentor stated that it is difficult to recruit doctorate-level psychologists to underserved rural areas; that many of the psychologists providing services in the public mental health sector hold only master's degrees; and suggested that it is reasonable to believe that master's-level psychologists can function at the same level as nurses or social workers trained at the master's level.

In response, the Department wishes to point out that the approach taken in the development of these criteria was to include those numbers of each core mental health service professional group that had received the highest level of training available in that discipline. In this way, the professionals included are those that are clearly fully-trained according to their colleagues, just as psychiatrists are only considered fully trained if they have completed medical school and residency in psychiatry. While we recognize that this leads to inclusion of holders of master's degrees in two of the disciplines while only holders of doctorates are accepted in the other two, we nevertheless believe that this approach is basically sound. Since only one comment to the contrary was received, we conclude that most psychologists reading the notice were in agreement with the restriction to holders of doctorates, and we do not plan to alter this approach.

The American Association for Marriage and Family Therapy (AAMFT) commented that marriage and family therapists should be included in the definition of core mental health professionals in the new criteria. They pointed out that 20 States license or certify marriage and family therapists; 41 graduate degree and post-degree training programs in this field have been accredited by the Commission on Accrediation for Marriage and Family Therapy Education; 600 additional training programs offer coursework in this field; and more than 16,000 qualified practitioners are members of the AAMFT. In addition, this discipline has already been recognized in relevant legislation; it was added in 1988 to the other four disciplines eligible for mental health traineeships under Section 303 of the Public Health Service Act. (Recipients of such traineeships are obligated to serve in HPSAs, in public inpatient mental institutions, or in other areas or entities designated by the Secretary under section 303.)

The Department agrees with this suggestion. The regulation has been revised to include this discipline. The definition of marriage and family therapists for this purpose includes those individuals (normally with a master's or doctoral degree in marital and family therapy and at least two years of supervised clinical experience) who are practicing marital and family therapy and are licensed or certified to do so by the State of practice; or, where licensure or certification is not required, are eligible for clinical membership in the AAMFT. (The use of "master's or doctoral" here is because some accredited programs lead only to the master's degree, while others lead only to the doctoral degree; our intent is that the programs covered be accredited and lead to at least a master's degree, analogous to the situation in social work.)

One commentor suggested that we also include registered occupational therapists, licensed physical therapists, vocational therapists, registered dieticians and registered pharmacists as part of the interdisciplinary team of professionals considered in the mental health shortage criteria, although no suggestion was included as to how or with what weight to include them. The Department recognizes that these professionals provide important contributions to the care given to persons suffering from mental health disorders, but the services they provide are not interchangeable with those provided by the core disciplines already identified, and shortages of these professionals are not correlated with shortages of psychiatrists, psychologists, etc. Therefore, this change is not being made.

Methodology Used in Combining Different Mental Health Professional Types

One commentor objected to the use of a population-to-core professional ratio involving the simple addition of the "core" types of mental health professionals. According to the commenter, this approach assumes that the core types are all equal, even though only psychiatrists have hospital admitting privileges and can prescribe medication. In response, the Department points out that although the core types are treated equally in the particular ratio question, the proposed methodology also uses the ratio of population-to-psychiatrists by themselves, specifically to take into account the medical role which only psychiatrists can exert.

Two commentors suggested that the criteria should treat all mental health professionals equally, resulting in the use of a single ratio, rather than using a mixture of one population-to-core-professional ratio and one population-to-psychiatrist ratio, which treats psychiatrists differently. These commentors pointed out that there is growing collaboration between primary care physicians and non-physician mental health professionals; that there is existing expertise in psychopharmacology and some options for limited prescription privileges among non-physician mental health professionals; and that the overwhelming majority of mental health patients do not require medication. They also stated that, according to CHAMPUS data, all the core mental health professionals treat schizophrenia and affective disorders as well as neurotic and personality disorders and adjustment reaction problems.

Despite the factors cited, the Department recognizes a distinct role for the psychiatrist. Furthermore, the methodology as proposed implicitly allows for a smooth transition from the previous criteria, based primarily on the population-to-psychiatrist ratio, to the new criteria which take into account both that ratio and the population-to-core-professional ratio.

One commentor felt that areas with adequate psychiatric coverage but shortages of clinical social workers or psychiatric nurses would not be identified by the proposed designation process, and that separate shortage designations for each type of mental health professional would be better. In response, the Department points out that the purpose of the criteria is to identify areas with shortages of mental health professionals. Clearly, the particular type of mental health professional(s) needed in each area will vary according to what types, if any, are already there; the characteristics of the population involved; and the need to have a balanced team of various types of professionals to meet community needs. This degree of specificity will need to be worked out on a site-by-site basis, just as the needs of individual sites identified as primary medical care HPSAs are currently analyzed to determine whether the site requires a family practice physician; a pediatrician, internist, or obstetrician/ gynecologist; or a nurse practitioner, nurse midwife, or physician assistant.

Choice of Ratio Levels in the Mental Health Shortage Criteria

Several commentors pointed out that national average population-to-provider ratios do not necessarily represent adequacy levels; their use presupposes the adequacy of current supply to meet demand if it were equitably distributed. They stated that the rationale for "shortage=1.5 to 2.0 times national mean" is not clear, and suggested that lower levels of these ratios should instead be used. According to these commentors, previous research has shown that many individuals with mental health problems are not receiving service for a variety of reasons, including inaccurate diagnosis, fear of being labeled, geographic remoteness from available care and insufficient financial resources to pay for treatment. Therefore, they believe the threshold ratios in the criteria should be carefully monitored for accuracy and utility as indicators of shortage, and replaced if evidence of the appropriateness of using smaller ratios is found. They further suggested that research be conducted to obtain better criteria. The Department concurs that research should go forward and that future changes should be considered if a better basis for threshold ratios is developed.

Data Issues

Two commentors pointed out that the available data on the number of professionals in each of the core disciplines are variable in scope, accuracy, currency and completeness and are not necessarily comparable; this could result in errors in the choice of threshold ratios and in the designation of particular areas. The Department recognizes that this may be a problem, but sees no immediate practical solution, except to urge both the States and the professional associations involved to improve the quality of their data on these professionals wherever possible.

Three commentors stated that in order to determine accurately the numbers of mental health professionals in these disciplines, expensive surveys would be required, especially in States where not all four types are licensed, certified or registered. Again, the Department recognizes and appreciates that this is likely to be a problem, particularly in States where no existing system is in place to collect data on one or more of the professions involved. States will need to make judgements about whether the expense of setting up such a system will likely yield benefits, not only to ease HPSA designation but also in monitoring these professionals in connection with other programs.

High Need/Insufficient Capacity Indicators

Several commentors, including four associations of mental health professionals, recommended that the Department not drop age-related indicators of high need. Two associations indicated that, contrary to the statement in the preamble to the NPRM, the Epidemiological Catchment Areas study cited did not include individuals aged 17 or younger, and further stated that no high-quality data exist on the prevalence of mental disorders in children and adolescents. These commentors argued further that high need determinations should not be based on utilization data, since previous research has shown that although children and the elderly are at no lower risk of experiencing mental health problems than the rest of the population, they tend to underutilize mental health services due to problems of inaccurate diagnosis, limited accessibility, and lack of financing.

A third commentor recommended that a large aged population be retained as a high need indicator, since "studies point to a correlation between the availability of mental health services and decreased utilization of unnecessary medical care, particularly among the aging population." A fourth commentor stated that higher rates of suicide occur among the elderly than in any other group, and that high rates of "self-destructive" behavior occur in young adults, specifically males. A fifth commentor recommended that we retain both the youth and elderly indicators because of "the strong evidence provided by empirical research that the psychiatric needs of the elderly are underserved" and "the strong evidence that children/ adolescents have "high need" for psychiatric services due to their

involvement in the use of illegal drugs and the evidence of high co-morbidity between mental disorders and substance abuse disorders."

Based on these comments, the Department will retain the youth and elderly high need indicators.

Some commentors noted that alcoholism and other substance abuse are important indicators of high need and should be included. They felt that the lack of availability of a national alcoholism index should not mean that alcoholism rates will not be considered; alternative measures should be used. The Department concurs and will add an allowance for the use of indicators of high prevalence of alcoholism or substance abuse, where available.

One commentor suggested that other factors such as homelessness, unemployment, natural disasters and HIV-endemic areas should also be considered for high needs. In response, the Department points out that an estimate of the number of homeless persons can be included in geographic area designations, and a homeless population can be separately designated as a population group or combined with the poverty population in a poverty/homeless population group. At this time, the Department does not plan to include any of the other suggested variables as high need factors.

Another commentor suggested that adjustments for high needs also be made for families receiving AFDC or other public income support, as well as for areas with elevated rates of school dropouts, homicide, and suicide. In response, the Department points out that several of these factors correlate with percent of the population below poverty, already used as a high need indicator. We are not prepared to adjust for local levels of school dropouts, homicide, and suicide.

Two commentors raised the question of how poverty is defined for the purposes of HMSA designation and expressed reservations about basing it on Department of Agriculture estimates of cost for a family of four to purchase food. One also commented that the rationale for using poverty "should acknowledge the established relationship between social status and mental disorders." In response, we feel that although any definition of poverty would likely be imperfect, it is important to have a single government-wide standard. The Bureau of the Census, rather than the Department of Health and Human Services, is responsible for annual updates of the official Federal Government statistical poverty thresholds, and application of those thresholds to prepare statistical estimates of the number of persons and families in poverty. (Contact: Enrique Lamas, Chief, Poverty and Wealth Statistics Branch, U.S. Bureau of the Census.)

Poverty is used in the primary medical care HPSA criteria because it tends to correlate with both lower health status and lack of access to health services; in the mental health HPSA criteria, the same correlation is assumed.

One commentor suggested there should be language in the rule to recognize areas in which a disproportionate number of chronically mentally ill reside. This would be a good suggestion, but for the fact that data on residence locations of the chronically mentally ill is not generally available, except where they are institutionalized. The institutionalized mentally ill are addressed in the existing mental health facilities criteria.

According to one commentor, the importance of language or cultural barriers should be reinforced, as well as the related shortages of professionals sensitive to minority populations and cultures, and the resulting disproportionate representation of minorities in State mental hospitals. In response, the Department notes that the population group HMSA criteria already address language and cultural barriers; the selection criteria for recipients of NHSC scholarships and loan repayments and for hiring in general emphasize minorities; and the NHSC's matching process stresses culturally sensitive placements.

According to one commentor, the criterion for determining insufficient capacity for a facility from number of patient visits per provider, as currently written, appears to allow consideration only of patient visits at the facility rather than counting staff visits outside the facility to serve the patients' needs. In response, the word "patient" is meant to include all patients served by the facility's staff as a service of that facility, whether on or off site. This, of course, would not include patients served by facility staff through private practices, if any.

Service Area/Contiguous Area Issues

According to one commentor, the proposed regulations would change the way of measuring distance to contiguous resources, by measuring the distance of the contiguous resources from the closest population center of the area proposed for designation, rather than from its geographic center, in contrast to the approach used in primary care and dental HMSA designation; this could lead inappropriately to dedesignation of some areas.

The wording of the contiguous area criterion as stated in the mental health criteria (appendix C) does appear to be slightly different from that stated in the primary medical care and dental criteria (appendices A and B). However, no functional difference was intended. Where a service area has one major population center, distances/travel times to contiguous resources are to be measured from this center; where the population is fairly evently distributed, distances/travel times are to be measured from the geographic center; where two population centers of roughly equal size are present, distances may be measured from a point halfway between them. However, where three or more population centers are present, as in the case of many multi-county mental health catchment areas, no simple rule is obviously applicable. Therefore, for these larger areas, we use the practical approach of measuring the distance from each contiguous area's population center to the nearest population center of the service area.

Other Issues on Mental Health Shortage Criteria

One commentor suggested that separate mental health shortage criteria be developed for children and adolescents, involving providers such as child psychiatrists, psychologists, speech pathologists, audiologists and therapists.

The Department points out that separate criteria for children and adolescents would logically require that we also do separate criteria for adult males, females of child-bearing age, females not child-bearing age, etc. We would then need to allocate each practitioner's time in patient care to one or more of these age/sex groupings. The age/sex groupings should be nonoverlapping, which would be difficult or impossible (for example: adolescent females fall in two or three categories). The whole system would thus become impossibly complex; we do not plan to proceed in this direction.

Other Issues on the Primary Medical Care HMSA Criteria

One commentor suggested that the HMSA criteria were already too stringent, and that the population-to-practitioner ratio required for designation should be reduced, particularly in high need areas such as those with high percentages of elderly. However, there seems to be relative satisfaction with the existing levels on the part of most commentors. At this time, the Department is making no change to the population-to-practitioner

ratios required for primary care and dental HPSA designation.

One commentor suggested that separate criteria for shortages of obstetricians should be developed, since areas which have no overall shortage of primary care physicians can have shortages of obstetricians and resulting elevated rates of infant mortality, low birth weight babies, and inadequate prenatal care. Our response to this is analogous to that for the previous issue regarding separate mental health shortage criteria for children and adolescents. In sum, our approach is that an area or population should be identified as having an overall primary medical care shortage in order to qualify for designation, not just a shortage for a particular age/sex group or a particular type of primary care physician.

One commentor raised the issue that service areas in the west are much larger and the populations that comprise market areas much smaller than in the rest of the country, and suggested that the HMSA regulations regarding rational service areas be modified to recognize these geographic differences. In response, we recognize this problem, particularly in the case of frontier areas. We therefore will allow some flexibility, i.e., use of larger service areas, in designation of frontier or near-frontier areas.

Two commentors suggested that a lower population-to-primary care provider ratio be used in isolated and low-density rural and frontier areas, and pointed out that this need was recognized in the preamble to the 1980 publication of the HMSA criteria but that nothing has been done. The Department has made no decision to reduce the population-to-practitioner ratios required for HPSA designation of frontier areas; however, under section 6213(c) of Public Law 101–239, areas which have not been designated as HPSAs but have been identified under State criteria and designated by State Governors as having shortages for State program purposes can be certified by the Secretary as appropriate for Rural Health Clinic purposes. Frontier areas designated by States using population-to-practitioner ratios less than the HPSA designation threshold could quite possibly achieve such certification.

Designation Process Issues

One commentor suggested that the medically underserved area (MUA) and HMSA designation processes be combined. These two designation processes have been kept separate because each is the basic requirement for a particular program, i.e., HMSA designation for NHSC placement and MUA designation for community health center (CHC) funding. However, primary medical care health manpower shortage is really one type of medical underservice. Regulation changes now being considered for the CHC program would make primary medical care HPSAs automatic MUAs.

Publication Process Issues

Two commentors expressed concern that the proposed rules changes were referenced incorrectly in the **Federal Register's** Table of Contents; these commentors felt that the comment period should be extended or the rules change republished. The Department regrets the publication error, but did consider comments received after expiration of the formal comment period deadline.

Regulatory Flexibility Act and Executive Order 12291

This rule reforms the criteria for designating the geographic areas in which a small fraction of National Health Service Corps enrollees are placed. It thereby establishes one condition for this type of Federal financial assistance to such areas. No standards in this rule go beyond the minimum necessary to achieve this purpose effectively. The benefits of this rule arise from improved measurement of mental health shortage areas, through taking into account not only psychiatrists but also other mental health service providers. This rule imposes no direct costs. As discussed elsewhere in this preamble, a number of alternatives were considered. We selected alternatives which minimize unnecessary complexity, minimize unnecessary change and disruption to the existing system, and recognize the most important and salient needs for mental health services.

Most areas designatable under the previous criteria will also be designatable under the revised criteria, although their degree-of-shortage group may change. When both psychiatrists and other core mental health service professionals are considered, some new mental health HPSAs will be designatable. However, since the number of obligated-service psychiatrists (or other core mental health professionals) available for placement in mental health HPSAs is limited, only a few placements will occur in newly-designated areas.

As a result, this rule meets the general requirements under Executive Order 12291 for maximizing benefits and minimizing costs, and the Secretary has determined that this rule will not impose costs of $100 million or otherwise meet the criteria for major rule established in the Executive order. Therefore, a Regulatory Impact Analysis is not required. The Secretary also certifies that this amendment to the regulations does not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act of 1980

There are no information collection requirements in this regulation.

List of Subjects in 42 CFR Part 5

Shortage.
Health.
Health professionals.
Psychiatrists.
Psychologists.
Social workers.
Psychiatric nurse specialists.
Marriage and family therapists.
Primary medical care physicians.
Dentists.

Dated: May 23, 1991.

James O. Mason,

Assistant Secretary for Health.

Approved: October 10, 1991.

Louis W. Sullivan,

Secretary.

Accordingly, 42 CFR part 5 is amended as set forth below:

PART 5—DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS

1. The authority citation for 42 CFR part 5 continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); Sec. 332 of the Public Health Service Act, 90 Stat. 2770–2772 (42 U.S.C. 254e).

2. The heading for appendix C of part 5 is revised to read as follows:

Appendix C—Criteria for Designation of Areas Having Shortages of Mental Health Professionals

3. Part I.A of appendix C is revised to read as follows:

Part I—Geographic Areas

A. *Criteria.* A geographic area will be designated as having a shortage of mental health professionals if the following four criteria are met:

1. The area is a rational area for the delivery of mental health services.

2. One of the following conditions prevails within the area:

(a) The area has

(i) a population-to-core-mental-health-professional ratio greater than or equal to 6,000:1 and a population-to-psychiatrist ratio greater than or equal to 20,000:1, or

(ii) a population-to-core-professional ratio greater than or equal to 9,000:1, or

(iii) a population-to-psychiatrist ratio greater than or equal to 30,000:1;

(b) The area has unusually high needs for mental health services, and has

(i) a population-to-core-mental-health-professional ratio greater than or equal to 4,500:1 and

a population-to-psychiatrist ratio greater than or equal to 15,000:1, or

(ii) a population-to-core-professional ratio greater than or equal to 6,000:1, or

(iii) a population-to-psychiatrist ratio greater than or equal to 20,000:1;

3. Mental health professionals in contiguous areas are overutilized, excessively distant or inaccessible to residents of the area under consideration.

* * * * *

4. In Part I.B, Methodology, the term "psychiatric" in the heading of paragraph 1 and the text of paragraphs 1(a) and 1(a)(ii) is changed to "mental health". Paragraphs 3, 4, and 5 are revised to read as follows:

* * * * *

3. *Counting of mental health professionals.* (a) All non-Federal core mental health professionals (as defined below) providing mental health patient care (direct or other, including consultation and supervision) in ambulatory or other short-term care settings to residents of the area will be counted. Data on each type of core professional should be presented separately, in terms of the number of full-time-equivalent (FTE) practitioners of each type represented.

(b) Definitions:

(i) *Core mental health professionals* or *core professionals* includes those psychiatrists, clinical psychologists, clinical social workers, psychiatric nurse specialists, and marriage and family therapists who meet the definitions below.

(ii) *Psychiatrist* means a doctor of medicine (M.D.) or doctor of osteopathy (D.O.) who

(A) is certified as a psychiatrist or child psychiatrist by the American Medical Specialities Board of Psychiatry and Neurology or by the American Osteopathic Board of Neurology and Psychiatry, or, if not certified, is "broad-eligible" (i.e., has successfully completed an accredited program of graduate medical or osteopathic education in psychiatry or child psychiatry); and

(B) practices patient care psychiatry or child psychiatry, and is licensed to do so, if required by the State of practice.

(iii) *Clinical psychologist* means an individual (normally with a doctorate in psychology) who is practicing as a clinical or counseling psychologist and is licensed or certified to do so by the State of practice; or, if licensure or certification is not required in the State of practice, an individual with a doctorate in psychology and two years of supervised clinical or counseling experience. (School psychologists are not included.)

(iv) *Clinical social worker* means an individual who

(A) is certified as a clinical social worker by the American Board of Examiners in Clinical Social Work, or is listed on the National Association of Social Workers' Clinical Register, or has a master's degree in social work and two years of supervised clinical experience; and

(B) is licensed to practice as a social worker, if required by the State of practice.

(v) *Psychiatric nurse specialist* means a registered nurse (R.N.) who

(A) is certified by the American Nurses Association as a psychiatric and mental health clinical nurse specialist, or has a master's degree in nursing with a specialization in psychiatric/mental health and two years of supervised clinical experience; and

(B) is licensed to practice as a psychiatric or mental health nurse specialist, if required by the State of practice.

(vi) *Marriage and family therapist* means an individual (normally with a master's or doctoral degree in marital and family therapy and at least two years of supervised clinical experience) who is practicing as a marital and family therapist and is licensed or certified to do so by the State of practice; or, if licensure or certification is not required by the State of practice, is eligible for clinical membership in the American Association for Marriage and Family Therapy.

(c) Practitioners who provide patient care to the population of an area only on a part-time basis (whether because they maintain another office elsewhere, spend some of their time providing services in a facility, are semi-retired, or operate a reduced practice for other reasons), will be counted on a partial basis through the use of full-time-equivalency calculations based on a 40-hour week. Every 4 hours (or ½ day) spent providing patient care services in ambulatory or inpatient settings will be counted as 0.1 FTE, and each practitioner providing patient care for 40 or more hours per week as 1.0 FTE. Hours spent on research, teaching, vocational or educational counseling, and social services unrelated to mental health will be excluded; if a practitioner is located wholly or partially outside the service area, only those services actually provided within the area are to be counted.

(d) In some cases, practitioners located within an area may not be accessible to the general population of the area under consideration. Practitioners working in restricted facilities will be included on an FTE basis based on time spent outside the facility. Examples of restricted facilities include correctional institutions, youth detention facilities, residential treatment centers for emotionally disturbed or mentally retarded children, school systems, and inpatient units of State or county mental hospitals.

(e) In cases where there are mental health facilities or institutions providing both inpatient and outpatient services, only those FTEs providing mental health services in outpatient units or other short-term care units will be counted.

(f) Adjustments for the following factors will also be made in computing the number of FTE providers:

(i) Practitioners in residency programs will be counted as 0.5 FTE.

(ii) Graduates of foreign schools who are not citizens or lawful permanent residents of the United States will be excluded from counts.

(iii) Those graduates of foreign schools who are citizens or lawful permanent residents of the United States, and practice in certain settings, but do not have unrestricted licenses to practice, will be counted on a full-time-equivalency basis up to a maximum of 0.5 FTE.

(g) Practitioners suspended for a period of 18 months or more under provisions of the Medicare-Medicaid Anti-Fraud and Abuse Act will not be counted.

4. *Determination of unusually high needs for mental health services.* An area will be considered to have unusually high needs for mental health services if one of the following criteria is met:

(a) 20 percent of the population (or of all households) in the area have incomes below the poverty level.

(b) The youth ratio, defined as the ratio of the number of children under 18 to the number of adults of ages 18 to 64, exceeds 0.6.

(c) The elderly ratio, defined as the ratio of the number of persons aged 65 and over to the number of adults of ages 18 to 64, exceeds 0.25.

(d) A high prevalence of alcoholism in the population, as indicated by prevalence data showing the area's alcoholism rates to be in the worst quartile of the nation, region, or State.

(e) A high degree of substance abuse in the area, as indicated by prevalence data showing the area's substance abuse to be in the worst quartile of the nation, region, or State.

5. *Contiguous area considerations.* Mental health professionals in areas contiguous to an area being considered for designation will be considered excessively distant, overutilized or inaccessible to the population of the area under consideration if one of the following conditions prevails in each contiguous area:

(a) Core mental health professionals in the contiguous area are more than 40 minutes travel time from the closest population center of the area being considered for designation (measured in accordance with paragraph B.1(b) of this part).

(b) The population-to-core-mental-health-professional ratio in the contiguous area is in excess of 3,000:1 and the population-to-psychiatrist ratio there is in excess of 10,000:1, indicating that core mental health professionals in the contiguous areas are overutilized and cannot be expected to help alleviate the shortage situation in the area for which designation is being considered. (If data on core mental health professionals other than psychiatrists are not available for the contiguous area, a population-to-psychiatrist ratio there in excess of 20,000:1 may be used to demonstrate overutilization.)

(c) Mental health professionals in contiguous areas are inaccessible to the population of the requested area due to geographic, cultural, language or other barriers or because of residency restrictions of programs or facilities providing such professionals.

* * * * *

5. Part I.C is revised to read as follows:

* * * * *

C. *Determination of degree of shortage.* Designated areas will be assigned to degree-of-shortage groups according to the following table, depending on the ratio (R_C) of population to number of FTE core-mental-health-service providers (FTE_C); the ratio (R_P) of population to number of FTE psychiatrists (FTE_P); and the presence or absence of high needs:

High Needs Not Indicated

Group 1—$FTE_C=0$ and $FTE_P=0$
Group 2—R_C gte * 6,000:1 and $FTE_P=0$
Group 3—R_C gte 6,000:1 and R_P gte 20,000
Group 4(a)—For psychiatrist placements only: All other areas with $FTE_P=0$ or R_P gte 30,000
Group 4(b)—For other mental health practitioner placements: All other areas with R_C gte 9,000:1.

* Note: "gte" means "greater than or equal to".

High Needs Indicated

Group 1—$FTE_C=0$ and $FTE_P=0$
Group 2—R_C gte 4,500:1 and $FTE_P=0$
Group 3—R_C gte 4,500:1 and R_P gte 15,000
Group 4(a)—For psychiatrist placements only: All other areas with $FTE_P=0$ or R_P gte 20,000
Group 4(b)—For other mental health practitioner placements: All other areas with R_C gte 6,000:1.

6. A new paragraph D is added to part I, as follows:

* * * * *

D. *Determination of Size of Shortage.* Size of Shortage (in number of FTE professionals needed) will be computed using the following formulas:

(1) For areas without unusually high need:

Core professional shortage = area population/6,000 − number of FTE core professionals
Psychiatrist shortage = area population/20,000 − number of FTE psychiatrists

(2) For areas with unusually high need:

Core professional shortage = area population/4,500 − number of FTE core professionals
Psychiatrist shortage = area population/15,000 − number of FTE psychiatrists

7. Part II of appendix C is revised to read as follows:

* * * * *

Part II—Population Groups

A. *Criteria.* Population groups within particular rational mental health service areas will be designated as having a mental health professional shortage if the following criteria are met:

1. Access barriers prevent the population group from using those core mental health professionals which are present in the area; and

2. One of the following conditions prevails:

(a) the ratio of the number of persons in the population group to the number of FTE core mental health professionals serving the population group is greater than or equal to 4,500:1 and the ratio of the number of persons in the population group to the number of FTE psychiatrists serving the population group is greater than or equal to 15,000:1; or,

(b) the ratio of the number of persons in the population group to the number of FTE core mental health professionals serving the population group is greater than or equal to 6,000:1; or,

(c) The ratio of the number of persons in the population group to the number of FTE psychiatrists serving the population group is greater than or equal to 20,000:1.

B. *Determination of degree of shortage.* Designated population groups will be assigned to the same degree-of-shortage groups defined in part I.C of this appendix for areas with unusually high needs for mental health services, using the computed ratio (R_C) of the number of persons in the population group to the number of FTE core mental health service providers (FTE_C) serving the population group, and the ration (R_P) of the number of persons in the population group to the number of FTE psychiatrists (FTE_P) serving the population group.

C. *Determination of size of shortage.* Size of shortage will be computed as follows:

Core professional shortage = number of persons in population group/4,500 − number of FTE core professionals
Psychiatrist shortage = number of persons in population group/15,000 − number of FTE psychiatrists

* * * * *

8. Part III, section C, *Community Mental Health Facilities and Other Public or Nonprofit Private Facilities,* is amended by changing "psychiatric manpower" to "mental health professional(s)" and "psychiatric services" to "mental health services" wherever they occur in paragraphs 1, 2(a)(i) and 2(b), and in paragraphs 2(a)(ii) and 2(b) change "psychiatric services" to read "mental health services", by revising paragraphs 2(c) (i) and (ii) to read as follows, and by adding a new paragraph 2(c)(iii):

* * * * *

(c) *Insufficient capacity to meet mental health service needs.* A facility will be considered to have insufficient capacity to meet the mental health service needs of the area or population it serves if:

(i) there are more than 1,000 patient visits per year per FTE core mental health professional on staff of the facility, or

(ii) there are more than 3,000 patient visits per year per FTE psychiatrist on staff of the facility, or

(iii) no psychiatrists are on the staff and this facility is the only facility providing (or responsible for providing) mental health services to the designated area or population.

9. Appendix A, *Criteria for Designation of Areas Having Shortages of Primary Medical Care (Manpower,*

Part I—Geographic Areas, is amended by adding new paragraph D, as follows:

* * * * *

D. *Determination of size of primary care physician shortage.* Size of Shortage (in number of FTE primary care physicians needed) will be computed using the following formulas:

(1) For areas without unusually high need or insufficient capacity:

Primary care physician shortage = area population/3,500 − number of FTE primary care physicians

(2) For areas with unusually high need or insufficient capacity:

Primary care physician shortage = area population/3,000 − number of FTE primary care physicians

10. Appendix A, Part II—*Population Groups*, is amended by adding new paragraph C, as follows:

* * * * *

C. *Determination of size of primary care physician shortage.* Size of shortage (in number of primary care physicians needed) will be computed as follows:

Primary care physician shortage = number of persons in population group/3,000 − number of FTE primary care physicians

11. Appendix B, Criteria for Designation of Areas Having Shortages of Dental Manpower, Part I—*Geographic Areas*, is amended by adding new paragraph D, as follows:

* * * * *

D. *Determination of size of dental shortage.* Size of Dental Shortage (in number of FTE dental practitioners needed) will be computed using the following formulas:

(1) For areas without unusually high need:

Dental shortage = area population/5,000 − number of FTE dental practitioners

(2) For areas with unusually high need:

Dental shortage = area population/4,000 − number of FTE dental practitioners

12. Appendix B, Part II—*Population Groups*, is amended by adding new paragraph C, as follows:

* * * * *

C. *Determination of size of dental shortage.* Size of dental shortage will be computed as follows:

Dental shortage = number of persons in population group/4,000 − number of FTE dental practitioners

13. The entire text of part 5, including its title, is amended by replacing the word "manpower" throughout with the word "professional(s)".

[FR Doc. 92-1131 Filed 1-21-92; 8:45 am]
BILLING CODE 4160-15-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket Nos. 89-326, 89-327; RM-5138, RM-6315, RM-6448, RM-6765, RM-6779, RM-6782, RM-6836, RM-6840, RM-7304, RM-7305, RM-7306, RM-7307, RM-7308; FCC 92-4]

Radio Broadcasting Services; Carolina Beach, Havelock, Hertford, Jacksonville, Fair Bluff, Wilmington, Shallotte and Longwood, North Carolina, and Murrells Inlet, Bucksport, Darlington, Loris, St. Stephen, North Myrtle Beach, Surfside Beach, Johnsonville, Scranton, Kure Beach, Georgetown and Stallsville, South Carolina

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission resolves competing requests for FM channel allotments to various communities in North Carolina and South Carolina, pursuant to the Memorandum Opinion and Order consolidating consideration of MM Docket Nos. 89-326 and 89-327, as follows. See 55 FR 6643 (February 26, 1990) and Supplementary Information, *infra*. With this action, this proceeding is terminated.

DATES: Effective March 2, 1992. The window period for filing applications for Channel 294A at Carolina Beach, North Carolina, and Channel 300C2 at Bucksport, South Carolina, will open on March 3, 1992, and close on April 2, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Ruger or Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 89-326 and 89-327, adopted January 2, 1992, and released January 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

The request of RJM Broadcasting to allot Channel 292A to either Stallsville or Ladson, SC, is denied because Stallsville is not a community for allotment purposes, and the Ladson proposal was untimely filed. The request of Great Southern Media to allot Channel 235A to Longwood, NC, is dismissed because no timely filed expression of interest was received. At the request of Jones, Eastern of the Grand Strand, Inc., Channel 276C3 is substituted for Channel 276A at Surfside Beach, SC, and the license of Station WYAK(FM) is modified to specify operation on the higher powered channel. At the request of Marine Broadcasting Corporation, Channel 288C2 is substituted for Channel 288A at Jacksonville, NC, the license of Station WXQR-FM is modified to specify operation on the higher powered channel, Channel 283A is substituted for Channel 287A at Wilmington, NC, and the construction permit of Beatriz Garcia Suarez de McCommas is modified accordingly. At the request of G&M Communications, Channel 300C2 is allotted to Bucksport, SC, as that community's first local FM service. At the request of Musicradio of North Carolina, Inc., Channel 286C2 is substituted for Channel 285A at Havelock, NC, and the license of Station WMSQ(FM) is modified to specify operation on the higher powered channel. At the request of Maranatha Broadcasting Company, Inc., Channel 285C2 is substituted for Channel 285A at Hertford, NC, and the construction permit of Station WKJE(FM) is modified to specify the higher powered channel. At the request of Todd Spoeri, Channel 294A is allotted to Carolina Beach, NC, as the community's first local FM service. At the request of Jennings Communications Corporation, Channel 279C3 is substituted for Channel 228A at Shallotte, NC, the license of Station WDZD-FM is modified to specify operation on the higher powered channel, and Channel 252C3 is allotted to Shallotte for use by other interested parties. Spoeri's request to substitute Channel 252A for Channel 292A at Shallotte and modify the license of Station WCCA-FM accordingly, is denied because the allotment of Channel 252A would require the denial of two wide coverage area FM services at Shallotte. In addition, Spoeri failed to provide a sufficiently compelling showing demonstrating that Station WCCA-FM receives prohibited interference from Station WSYN-FM, Channel 293C2, Georgetown, SC. At the request of Ogden Broadcasting of South Carolina, Inc., Channel 290C3 is substituted for Channel 288A at North Myrtle Beach, SC, the license of Station WNMB(FM) is modified to specify the higher powered channel, Channel 291A is substituted for Channel 290A at St. Stephen, SC, the construction permit of Station WTUA-FM is modified to

specify the alternate Class A channel, and Channel 235A is substituted for Channel 290A at Loris, SC, and the construction permit of Robert L. Rabon is modified to specify operation on the alternate Class A channel. At the request of Radio Carolina Limited Partnership, Channel 288C3 is substituted for Channel 288A at Darlington, SC, and the license of Station WDAR–FM (formerly Station WMWG–FM) is modified to specify the higher powered channel. The request of RJM Broadcasting to allot Channel 289A to Georgetown, SC, as the community's fourth local FM service is denied because the upgraded operations at North Myrtle Beach and Darlington would provide additional service to more people than would a new station at Georgetown. In addition, the allotment of Channel 290C3 at North Myrtle Beach permits upgrades at Jacksonville, Havelock and Hertford. The request of Hendrix Broadcasting to allot Channel 294A to Kure Beach, SC, is dismissed because no expression of interest in use of the channel was received.

Coordinates for Channel 276C3 at Surfside Beach are 33–43–00 and 78–52–00, which reflect a site restriction of 15.8 kilometers (9.8 miles) northeast to avoid a short-spacing to the construction permit (BPH–880804MM) for a new station on Channel 275A at Scranton, SC. Because the petition which resulted in the allotment of Channel 276C3 at Surfside Beach was filed prior to October 2, 1989, Jones may avail itself of the provisions of Section 73.213(c)(1) with respect to the construction permit for Channel 275A at Scranton. Coordinates for Channel 288C2 at Jacksonville are 34–31–45 and 77–27–49, which reflects a site restriction of 24.5 kilometers (15.2 miles) south to avoid a short-spacing to the construction permit for Station WRSF–FM, Channel 289C, Columbia, NC, and the construction permit for Station WGQR–FM, Channel 289A, Elizabethtown, NC. Coordinates for Channel 283A at Wilmington, NC, are 34–16–15 and 77–57–23, the site specified in McCommas' outstanding construction permit. Because the petition which resulted in the allotment of Channel 283A to Wilmington was filed prior to October 2, 1989, McCommas may avail herself of the provisions of § 73.213(c)(1) with respect to Station WCCG, Channel 283A, Hope Mill, NC. Coordinates for Channel 286C2 at Havelock are 34–49–42 and 76–42–12, which reflects a site restriction of 19 kilometers (11.8 miles) east to avoid a short-spacing to Station WDCG, Channel 286C, Durham, NC. Coordinates for Channel 285C2 at Hertford are 36–08–42 and 76–28–20, which reflects a site restriction of 5 kilometers (3.1 miles) south to avoid a short-spacing to Station WMXN, Channel 287B, Norfolk, VA. Coordinates for Channel 252C3 at Shallotte are 33–55–49 and 78–11–54, which reflects a site restriction of 17.6 kilometers (10.9 miles) east to avoid a short-spacing to the licensed site of Station WQSM, Channel 251C1, Fayetteville, NC. Coordinates for Channel 279C3 at Shallotte are 33–58–51 and 78–22–24, which reflects a site restriction of 1.3 kilometers (0.8 miles) northeast to avoid a short-spacing to Station WYAV, Channel 281C1, Conway, SC, and Station WZXS, Channel 280A, Topsail Beach, NC. Coordinates for Channel 294A at Carolina Beach are 33–58–30 and 77–54–50, which reflects a site restriction of 6.9 kilometers (4.3 miles) south to avoid a short-spacing to the licensed site of Station WSFL–FM, Channel 293C1, New Bern, NC. Because the petition which resulted in the allotment of Channel 294A to Carolina Beach was filed prior to October 2, 1989, applicants may avail themselves of the provisions of § 73.213(c)(1) of the Commission's Rules with respect to Station WSFL–FM, Channel 293C1, New Bern, NC. Coordinates for Channel 300C2 at Bucksport are 33–38–45 and 79–08–12, which reflects a site restriction of 3.2 kilometers (2.0 miles) southwest to avoid a short-spacing to the licensed site for Station WNCT–FM, Channel 300C, Greenville, NC. Coordinates for Channel 290C3 at North Myrtle Beach are 33–50–00 and 78–45–39, which reflects a site restriction of 7.2 kilometers (4.5 miles) west to avoid a short-spacing to Station WSYN–FM, Channel 293C2, Georgetown, SC. Coordinates for Channel 288C3 at Darlington are 34–20–40 and 80–01–02, which reflects a site restriction of 14.5 kilometers (9.0 miles) west to avoid a short-spacing to vacant but applied for Channel 287A, Fair Bluff, NC, and the applications for that channel. Because the petition which resulted in the allotment of Channel 288C3 at Darlington was filed prior to October 2, 1989, RCLP will be permitted to avail itself of the provisions of § 73.213(c)(1) of the Commission's Rules with respect to Station WJYQ, Channel 288A, Moncks Corner, SC, and to the allotment and pending applications for Channel 287A at Fair Bluff, NC. The coordinates for Channel 291A at St. Stephen are 33–29–36 and 79–53–21, the coordinates for Station WTUA–FM's construction permit. The coordinates for Channel 235A at Loris are 34–05–26 and 78–52–59, which reflect a site restriction of 2.5 kilometers (1.5 miles) north to avoid a short-spacing to the construction permit for Station WSSX–FM, Channel 236C, Charleston, SC.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by adding Carolina Beach, Channel 294A; removing Channel 285A and adding Channel 286C2 at Havelock; removing Channel 285A and adding Channel 285C2 at Hertford; removing Channel 288A and adding Channel 288C2 at Jacksonville; removing Channel 228A and adding Channels 252C3 and 279C3 at Shallotte; and removing Channel 287A and adding Channel 283A at Wilmington.

§ 73.202 [Amended]

3. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Bucksport, Channel 300C2; removing Channel 288A and adding Channel 288C3 at Darlington; removing Channel 290A and adding Channel 235A at Loris; removing Channel 288A and adding Channel 290C3 at North Myrtle Beach; removing Channel 290A and adding Channel 291A at St. Stephen; and removing Channel 276A and adding Channel 276C3 at Surfside Beach.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–1445 Filed 1–21–92; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 57, No. 14
Wednesday, January 22, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

United States Standards for Beans, Whole Dry Peas, Split Peas, and Lentils

AGENCY: Federal Grain Inspection Service, USDA.[1]

ACTION: Advance notice of proposed rulemaking.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) invites comments and suggested changes to the United States Standards for Beans, Whole Dry Peas, Split Peas, and Lentils under the Agricultural Marketing Act of 1946.

DATES: Comments must be submitted on or before April 21, 1992.

ADDRESSES: Written comments must be submitted to George Wollam, FGIS, USDA, room 0619 South Building, P.O. Box 96454, Washington, DC, 20090–6454; telemail users may respond to IRSTAFF/FGIS/USDA; telex users may respond to 7607351, ANS:FGIS/UC; and telecopy users may respond to the automatic telecopier machine at (202) 720–4628.

All comments received will be made available for public inspection at room 0619 South Building, 1400 Independence Avenue SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720–0231.

SUPPLEMENTARY INFORMATION: This periodic review of the United States Standards for Beans, Whole Dry Peas, Split Peas, and Lentils in 7 CFR part 68 is being conducted in accordance with Executive Order 12291 and Departmental Regulation 1512–1.

During this review, FGIS will assess the need for revision of the various sections of the standards, the potential for improvements, and language clarity. Specifically, FGIS will review the need to establish criteria for inspecting thresher-run beans without reference to grade.

FGIS invites any comments and/or suggestions on changes to the official standards for beans, whole dry peas, split peas, and lentils.

Authority: Sec. 203(c), Agricultural Marketing Act of 1946 (7 U.S.C. 1622).

Dated: December 17, 1991.

John C. Foltz,

Administrator.

[FR Doc. 92–1399 Filed 1–21–92; 8:45 am]

BILLING CODE 3410–EN–M

[1] The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

7 CFR Part 68

United States Standards for Rice

AGENCY: Federal Grain Inspection Service, USDA.[1]

ACTION: Advance notice of proposed rulemaking.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) invites comments and suggested changes to the United States Standards for Rice under the Agricultural Marketing Act of 1946.

DATES: Comments must be submitted on or before April 21, 1992.

ADDRESSES: Written comments must be submitted to George Wollam, FGIS, USDA, room 0619 South Building, P.O. Box 96454, Washington, DC, 20090–6454; telemail users may respond to IRSTAFF/FGIS/USDA; telex users may respond to 7607351, ANS:FGIS UC; and telecopy users may respond to the automatic telecopier machine at (202) 720–4628.

All comments received will be made available for public inspection in room 0632 USDA South Building, 1400 Independence Avenue SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above telephone (202) 720–0231

SUPPLEMENTARY INFORMATION: This periodic review of the United States Standards for Rice in 7 CFR part 68 is being conducted in accordance with Executive Order 12291 and Departmental Regulation 1512–1.

During this review, FGIS will assess the need for revision of the various sections of the standards, the potential for improvements, and language clarity. Specifically, FGIS will review the need to:

1. Establish standards for edible brown rice,

2. Establish a special grade for aromatic rice,

3. Increase the limits for broken kernels removed by a 5 plate for U.S. Nos. 1 and 2 Long grain, Medium grain, Short grain, and Mixed milled rice,

4. Eliminate the class Screenings milled rice,

5. Revise the definitions of the classes Long grain, Medium grain, Short grain, and Mixed rough rice by eliminating the requirement that these classes must contain more than 25 percent whole kernels, and

6. Revise the definitions of the classes Second head, Screenings, and Brewers milled rice by eliminating the southern production criteria and adopting the western production criteria for rice grown in all areas of production.

FGIS invites any comments and/or suggestions on changes to the official standards for rice.

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

Dated: December 20, 1991

John C. Foltz,

Administrator

[FR Doc. 92–1400 Filed 1–21–92; 8:45 am]

BILLING CODE 3410–EN–M

[1] The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

Food Safety and Inspection Service

9 CFR PART 391

[Docket No. 91-040P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to increase the fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services to meat and poultry establishments. The fee increase would reflect the increased costs of providing these services due primarily to the increase in salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990.

DATES: Comments must be received on or before: February 6, 1992.

ADDRESSES: Send written comments to the Policy Office, Attention: Linda Carey, FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. William L.West, (202) 720-3367. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700, (202) 720-3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." It will not result in an annual effect of the economy of $100 million or more; in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The fee increases reflect a small increase in costs only to establishments that elect to utilize certain inspection services.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601) because the fees provided for in this document reflect only a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office and should refer to the docket number that appears in the heading of this document. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. West so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this action will be available for public inspection in the Policy Office between 9 a.m. and 4 p.m., Monday through Friday.

Background

Each year the fees for certain services rendered by FSIS to operators of official meat and poultry establishments, importers, or exporters are reviewed, and a cost analysis is performed to determine if such fees are adequate to recover the costs of providing the Services.[1] The analysis relates to fees charged in connection with overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services. The fees to be charged for these services have been determined by an analysis of data on the current cost of these services and by estimating costs associated with the coming year's operations of the program, including increases in those costs due to an increase in the salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990, and by other increases affecting Federal employees, such as costs for benefits.

Based on the Agency's analysis of the increased costs in providing these services to be incurred as a result of the pay raise of 4.2 percent for Federal employees effective January 1992, of increasing number employees covered by the Federal Employees Retirement System in 1992, which is subject to the Federal Insurance Contributions Act (FICA) wage tax, and of increased health insurance costs, FSIS proposes to increase the fees relating to such services.

The Agency charges for the costs of services that are incidental to mandatory inspection. Mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products.

The ordinary costs of providing that inspection are borne by the U.S. Government. However, costs for these inspection services performed on holidays or on an overtime basis may be incurred to accommodate the business needs of particular establishments. Any or all of these costs which are not a part of the mandatory inspection service are recoverable by the Government.

Section 307.5 (9 CFR 307.5) of the meat inspection regulations provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate specified in § 391.3, currently $28.32 per inspector hour. Similarly, § 381.38 (9 CFR 381.38) of the poultry products inspection regulations provides that FSIS shall be reimbursed for the cost of poultry inspection on holidays or on an overtime basis at the rate specified in § 391.3, currently $28.32 per inspector hour. These fees would be increased to $29.72 per inspector hour.

FSIS also provides a range of voluntary inspection services (9 CFR 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5); the costs of which are totally recoverable by the Government. These services, provided under Subchapter B—Voluntary Inspection and Certification Service, are provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and byproducts not subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act.

The basic hourly rate for providing such certification and inspection service is currently $27.72 per inspector hour as specified in § 391.2. The overtime and

[1] The cost analysis is on file with the FSIS Hearing Clerk. Copies may be requested free of charge from the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700.

holiday hourly rate is currently $28.32 as specified in § 391.3, the rate for laboratory services is currently $47.96 per hour as specified in § 391.4. The hourly rates for these services would be increased to $29.00, $29.72, and $49.80, respectively.

List of Subjects in 9 CFR Part 391

Meat inspection; Poultry products inspection; Fees and charges.

Accordingly, 9 CFR 391, the Federal meat and poultry products inspection regulations would be amended as follows:

PART 391—[AMENDED]

1. The authority citation for part 391 would continue to read as follows:

Authority: 21 U.S.C. 601 *et seq.*, 460 *et seq.*; 7 CFR 2.17 (g) and (i), 2.55; 7 U.S.C. 394, 1622, and 1624.

2. Sections 391.2, 391.3, and 391.4 would be revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $29.00 per hour, per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5, and 381.38 shall be $29.72 per hour, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $49.80 per hour, per program employee.

Done at Washington, DC, on January 2, 1992.

Ronald J. Prucha,

Acting Administrator.

[FR Doc. 92-1511 Filed 1-21-92; 8:45 am]

BILLING CODE 3410-DM-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 705

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The current regulations in 12 CFR part 705 govern loans made from a revolving loan fund to certain low-income credit unions. The NCUA Board is proposing to modify § 705.7(b)(2) of the regulations so as to allow disbursement of the entire loan proceeds in a single payment without the credit union having to generate matching funds at the time of disbursement. The intended effect of this amendment is to provide expeditious disbursement of loan funds to participating credit unions.

DATES: Comments must be submitted by February 21, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION: The purpose of the Community Development Revolving Loan Program ("Program") is to make reduced rate loans to both federal and state-chartered credit unions serving low income communities so that those credit unions may provide needed financial services and help to stimulate the economy in the communities served. To implement the Program the NCUA Board published a final rule on September 16, 1987 (52 FR 34891). The final regulation set forth, among other things, the scope and purpose of the program, application procedures, types of activities participating credit unions can perform, and the procedure for disbursing and collecting loans. Although the Program has functioned well, the Board is proposing a technical amendment to provide for more expeditious disbursement of Program loan proceeds.

Currently, under § 705.7 of the Regulations, loans of up to $200,000 may be made to participating credit unions. Loan funds must be matched dollar for dollar with increased shares by the participating credit union. Only 50% of the loan will be disbursed if the credit union has not met the dollar for dollar match at the time its loan is approved. The remainder of the funds are only made available to the credit union after it has documented that it has met the match requirement for the total amount of the loan. This procedure was set forth to alleviate some of the perceived risk of the loan not being repaid in a timely manner.

The NCUA Board believes it is important to expeditiously disburse loan funds to participating credit unions to help them provide financial services in their communities. Furthermore, during the two years NCUA has administered the Program, no participating credit union has failed to make its loan payments on time. Therefore, the Board believes that a loan can be disbursed in its entirety even if the credit union has not met the matching requirement. The matching requirement is still an important aspect of the Program and participating credit unions will have to match the loan amount received from the Program with increased shares, dollar for dollar, within one year of the approval of their loans. A participating credit union's failure to generate the required match within one year of the approval of the loan will result in the reduction of the loan proportionate to the amount of match actually generated. Any funds already advanced to the credit union in excess of the revised amount must be repaid immediately to NCUA. The NCUA Board is proposing to amend § 705.7(b)(2) of the Regulations in order to allow for disbursement of the entire loan proceeds in a single payment without the credit union having to generate the match by the time of disbursement. The Board would still have the flexibility to withhold a portion of the loan where deemed appropriate for safety and soundness reasons.

Paperwork Reduction Act

The Office of Management and Budget has approved the collection requirements contained in part 705 of NCUA's Regulations (OMB No. 3133-0109). The proposed amendment does not change the paperwork requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed amendment is less restrictive than the current regulation. Overall, the NCUA Board expects the change to benefit credit unions by permitting them to receive the entire loan proceeds before meeting the required match. Accordingly, the Board determines and certifies that this proposed amendment does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The Program is implemented in its entirety by the NCUA. The proposed amendment, if adopted, will make it easier for all credit unions participating in the Program, including state-chartered credit unions, to receive approved loans in their entirety. Therefore, the NCUA Board

has determined that the proposed amendment, if adopted, will not a have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 705

Community development, Credit unions, Loan programs—housing and community development, Reporting and recordkeeping requirements, Technical assistance.

By the National Credit Union Administration Board on January 15, 1992.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 705 as follows:

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

1. The authority citation for part 705 continues to read as follows:

Authority: Pub. L. 97–35, 95 Stat. 498; Pub. L. 99–609, note to 42 U.S.C. 9822; Pub. L. 101–144.

2. Section 705.7(b)(2) is revised as follows:

§ 705.7 Loans to participating credit unions.

* * * * *

(b) * * *

(2) Upon approval of its loan application, and before it meets its matching requirement, a participating credit union may receive the entire loan commitment in a single payment. If any funds are withheld, the remainder of the funds committed will be available to the participating credit union only after it has documented that it has met the match requirement for the total amount of the loan committed.

* * * * *

[FR Doc. 92–1550 Filed 1–21–92; 8:45 am]

BILLING CODE 7535–01–M

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12 CFR Part 722

Appraisals

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board is proposing to amend part 722 to exempt additional transactions from the requirements of the appraisal regulation. The proposed amendments would: Permit federally-insured credit unions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to the requirements of the federal insurer or guarantor; and add a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or growing crops. This amendment reduces appraisal costs for credit unions.

DATES: Comments must be submitted by March 23, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682-9630

SUPPLEMENTARY INFORMATION:

Discussion

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") directed NCUA and the other financial institution regulatory agencies, to publish appraisal rules for federally related real estate transactions within the jurisdiction of each agency. In accordance with statutory requirements, NCUA's final rule set minimum standards for appraisals used in connection with federally related real estate transactions and identified those transactions that require a state certified appraiser and those that require either a state certified or licensed appraiser. The final rule was published July 25, 1990 (55 FR 30199). The NCUA Board is proposing to amend part 722 to exempt additional transactions from the requirement of the appraisal regulation.

Government Guaranted Loans

The NCUA Board proposes to amend subsection 722.3(a) to add a new paragraph (6) which would exempt from the appraisal requirement any transaction involving a loan insured or guaranteed by an agency of the federal government if that loan is supported by a current appraisal that meets the standards of the federal agency providing the insurance or guarantee. The NCUA Board is proposing this amendment in response to credit unions' concern about the differences in requirements for appraisals under part 722 and appraisals required by various federal agencies insuring or guaranteeing the loans.

Because of differences in appraisal requirements, it may not be clear to credit unions what appraisal rules are applicable to a particular transaction. At least one credit union manager was told that certain federal loan insurance or guarantee programs do not allow their appraisers to report any additional information in an appraisal or prepare a supplement to an appraisal which includes information beyond that required on the agency's appraisal form. Consequently, some credit unions may believe that they are required to obtain two separate appraisals in order to comply with the requirements of the federal insurer or guarantor and the requirements of part 722.

The proposed amendment would eliminate this problem by exempting those transactions that involve federally insured or guaranteed loans from NCUA's appraisal rule if the transaction is supported by a current appraisal that conforms to the requirements of the insuring or guaranteeing agency. The NCUA Board believes that the appraisal standards of the federal agencies that insure or guarantee loans protect federal financial and public policy interests in those real estate-related transactions. Consequently, requiring these transactions to meet additional appraisal requirements may increase costs for federally insured credit unions and consumers of federally insured or guaranteed loans without providing additional benefits or furthering the purposes for which title XI of FIRREA was enacted. Furthermore, without this exemption credit unions would be at a competitive disadvantage in granting these types of loans if other financial institutions have this exemption.

Definition of "Real Estate" and "Real Property"

The NCUA Board is also proposing a technical amendment which adds a definition of real estate and real property to its appraisal rule. This change is being made in response to questions concerning the application of the appraisal rule to interests in real property such as mineral rights, standing timber and growing crops.

Title XI of FIRREA does not define "real estate" or "real property" nor does the context in which these terms are used unambiguously suggest that the terms are intended to have different technical meanings. For instance, real estate-related financial transaction is defined in FIRREA and part 722 of NCUA's Regulations as:

> Any transaction involving (1) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (2) the refinancing of real property or interests in real property; and (3) the use of real property as security for a loan or investment, including mortgage backed securities.

Section 1110 of FIRREA also directed NCUA to issue regulations that require "real estate appraisals be performed in

accordance with generally accepted appraisal standards promulgated by the Appraisal Foundation." The Appraisal Foundation's standards, the Uniform Standards of Professional Appraisal Practice ("USPAP"), have separate definitions for real property ("the interest, benefits, and rights inherent in the ownership of real estate") and real estate ("an identified parcel or tract of land, including improvements, if any"). USPAP also recognizes that the terms are used interchangeably in some jurisdictions. Furthermore, state laws define real estate or real property in various ways. Some states include timber, mineral rights and growing crops within the general definition of real estate. This may cause confusion on whether such transactions come within the scope of the rule.

In its appraisal rule, the NCUA Board used real property and real estate interchangeably to mean interests in an identified parcel or tract of land and improvements. However, it is not clear whether these terms were intended to include mineral rights, timber rights, or growing crops, since valuation of such interests generally requires the services of a professional other than a real estate appraiser. The proposed amendment makes NCUA's intent clear by defining real property and real estate for purposes of the appraisal regulation as "an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, or growing crops." The proposed change will allow NCUA's rule to remain consistent with the other regulatory agencies' rules with respect to the definition of real property and real estate. Few, if any, federally insured credit unions make loans secured by mineral rights or timber rights. A limited number of credit unions, with agriculturally-based fields of membership, make loans secured by growing crops. In those cases, NCUA will continue to monitor, through the normal examination process, the credit unions' methods for establishing the value of their security interests.

Paperwork Reduction Act

The Office of Management and Budget has approved the collection requirements contained in part 722 of NCUA's Regulations (OMB No. 3133–0125) relating to appraisal requirements in federally related transactions for federally-insured credit unions. The proposed amendments do not change the paperwork requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). Overall, the NCUA Board expects the changes to benefit consumers and federally-insured credit unions regardless of size by reducing costs without substantially increasing the risk of loss for federally insured credit unions from fraudulent or inaccurate appraisals of real estate collateral. In addition, most small credit unions do not offer real estate loans. Accordingly the Board determines and certifies that these proposed amendments do not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. FIRREA requires that the appraisal regulations apply to all federally insured credit unions. If the proposed amendments are adopted, regulatory requirements for state-chartered federally-insured credit unions will be reduced. Therefore, the NCUA Board has determined that the proposed amendments, if adopted, will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 722

Appraisals, Credit unions, Mortgages, Reporting and recordkeeping requirements, State-certified and State-licensed appraisers.

By the National Credit Union Administration Board on January 15, 1992.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 722 as follows:

PART 722—APPRAISALS

1. The authority citation for part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789 and Pub. L. No. 101–73.

2. In § 722.2 existing paragraphs (g) through (k) are redesignated as paragraphs (h) through (l) and a new paragraph (g) is added to read as follows:

§ 722.2 Definitions.

* * * * *

(g) *Real estate or real property* means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, and growing crops.

* * * * *

3. In § 722.3, paragraph (a)(4)(iv) and (a)(5) are revised and a new paragraph (a)(6) is added to read as follows:

§ 722.3 Appraisal not required; transactions requiring a State-certified or licensed appraiser.

(a) * * *

(4) * * *

(iv) There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection; (5) A regulated institution purchases a loan or interest in a loan, pooled loans, or interest in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirement of this regulation, if applicable, at the time of origination; or

(6) A regulated institution makes or purchases a loan secured by real estate, which loan is insured or guaranteed by an agency of the United States government and is supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency.

* * * * *

[FR Doc. 92–1549 Filed 1–21–92; 8:45 am]
BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–283–AD]

Airworthiness Directives; British Aerospace Viscount Model 744, 745D, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Viscount Model 744, 745D, and 810 airplanes. This proposal would require visual inspection and rework of the nose and main landing

gear retraction jacks assembly; removal of any obstructions, if necessary; and repair or replacement of damaged parts. This proposal is prompted by a reported failure of a nose landing gear to lower, while the normal extension landing gear system was being used. The actions specified by the proposed AD are intended to prevent failure of one or more of the landing gears.

DATES: Comments must be received by March 9, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-283-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, AMN-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or argument as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-283-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention Rules Docket No. 91-NM-283-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Viscount Model 744, 745D, and 810 series airplanes. The Civil Aviation Authority advises that a case has been reported of a Viscount Model 806 series airplane, whose pilot had to use the emergency landing gear system, when the normal system failed to work. The nose landing gear retraction jack shuttle valve malfunctioned, which prevented the nose undercarriage from lowering. It has been established that the cause was the seizure of the shuttle within the shuttle valve assembly. Cadmium plating within the bore of a valve end connector had degraded, restricting the movement of the shuttle. If uncorrected, this condition could result in the failure of one or more of the landing gears to lower.

British Aerospace has issued Viscount Alert Preliminary Technical Leaflet (PTL) 319 (for Model 744 and 745D series airplanes) and PTL 188 (for Model 810 series airplanes), both dated March 14, 1990, which describe procedures for visual inspection and rework of the nose and main landing gear retraction jacks shuttle valve assembly; removal of any obstructions, if necessary; and repair or replacement of damaged parts. The Civil Aviation Authority has classified these service bulletins as mandatory.

These airplane models are manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require visual inspection and rework of the nose and main landing gear retraction jacks shuttle valve assembly; removal of any obstructions, if necessary; and repair or replacement of damaged parts. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 50 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost of parts is expected to be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $79,750.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91–NM–283–AD.

Applicability: All Viscount Model 744, 745, and 810 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of one or more of the landing gear, accomplish the following:

(a) Within 500 hours time in-service or within 6 months after the effective date of this AD, whichever occurs first, accomplish the following procedures in accordance with British Aerospace Viscount Alert Preliminary Technical Leaflet (PTL) 319 (for Model 744 and 745D series airplanes) or PTL 188 (for Model 810 series airplanes), both dated March 14, 1990, as applicable:

(1) Remove the nose and main landing gear retraction jacks. Remove the shuttle valve elbow connections, part numbers 70050–69 and 74450–117, and the shuttle, part number A5133–7, from the jacks, in accordance with the service bulletin.

(2) Ream the bore of each shuttle valve elbow connection, and chamfer the elbow bore aperture to 45 degrees. Remove the swarf and clean each shuttle valve elbow If any residual obstructions or burrs are detected, prior to further flight, remove them in accordance with the service bulletin.

(3) Visually inspect the "hard chrome" plating of the shuttle for damage. If any damaged or binding shuttles are detected, prior to further flight, replace them with new parts, in accordance with the service bulletin.

(4) Visually inspect the bores in the retraction jack cylinder ends for obstructions. If any obstructions or damaged parts are detected, prior to further flight, remove or replace them in accordance with the service bulletin.

(5) Reassemble the shuttles and shuttle valve elbow connections to their respective retraction jacks. Immediately subsequent to installation and reassembly, perform bench checks on the retraction jack assemblies, in accordance with the Viscount Maintenance Manual, to ensure proper operation of the shuttle valves. If any malfunctioning parts are detected, prior to further flight, repair or replace them in accordance with the Maintenance Manual. Reinstall the retraction jacks on the airplane, bleed the hydraulic system and perform landing gear functioning checks in accordance with the Viscount Maintenance Manual. If any malfunctioning parts are detected, prior to further flight, replace or repair them in accordance with the Maintenance Manual.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 7, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–1490 Filed 1–21–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–265–AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model ATP series airplanes. This proposal would require repetitive application of rain repellent fluid onto the windshields and adjacent sliding side windows. A terminating action is also provided, which, when accomplished, would eliminate the need for repetitive applications of raid repellent fluid. This proposal is prompted by reports of poor visibility during adverse weather, resulting from the inadequate operation of windshield washers and wipers. The actions specified by the proposed AD are intended to prevent poor visibility through the windshield and adjacent sliding side windows, which could adversely affect the pilot's and co-pilot's ability to navigate the airplane visually.

DATES: Comments must be received by March 10, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–265–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–265–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention Rules Docket No. 91–NM–265–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model ATP series airplanes. The Civil Aviation Authority advises that cases have been

reported of poor visibility through the windshield and adjacent side windows during adverse weather, resulting from the inadequate operation of windshield washers and wipers. If uncorrected, this condition could adversely affect the pilot's ability to navigate the airplane visually.

British Aerospace has issued Service Bulletin ATP-30-3, Revision 3, dated October 19, 1990, which describes procedures of repetitive application of rain repellent fluid onto the windshields and adjacent sliding side windows.

British Aerospace has also issued Service Bulletin ATP-30-10, dated September 30, 1991, which describes procedures for relocating windshield washer nozzles and rerouting fluid supply lines. When accomplished, these modifications would eliminate the need for repetitive applications of rain repellent fluid onto the windshields.

The Civil Aviation Authority has classified these service bulletins as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive applications of rain repellent fluid onto the windshields and adjacent sliding side windows. Additional requirements would include relocating windshield washer nozzles and rerouting fluid supply lines; when accomplished, these modifications would constitute terminating action for the requirements of this AD. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 30 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $2,266 per airplane, for those airplanes having serial numbers 2001 through 2019. Required parts would cost approximately $372 for all other airplanes. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,916 per airplane for those airplanes having serial numbers 2001 through 2019; and $2,022 per airplane for all other airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91-NM-265-AD.

Applicability: All Model ATP series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent poor windshield visibility, which could adversely affect the pilot's and co-pilot's ability to navigate the airplane visually, accomplish the following:

(a) For all airplanes: Within 14 days after the effective date of this AD, and thereafter at intervals not to exceed 50 hours time-in-service, apply Repcon wipe-on rain repellant, or other equivalent rain repellant, onto the windshields and adjacent sliding side windows, in accordance with British Aerospace Service Bulletin ATP-30-3, Revision 3, dated October 19, 1990.

(b) For airplanes having serial numbers 2001 through 2019: Within 9 months after the effective date of this AD, relocate the windshield washer nozzles by incorporating Modification 35073A, in accordance with British Aerospace Service Bulletin ATP-30-10, dated September 30, 1991.

(c) For all airplanes: Within 9 months after the effective date of this AD, reroute the windshield washer fluid supply lines by incorporating Modification 35198A, in accordance with British Aerospace Service Bulletin ATP-30-10, dated September 30, 1991.

(d) Accomplishment of the modifications required by paragraphs (b) and (c) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 8, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1491 Filed 1-21-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-261-AD]

Airworthiness Directives; British Aerospace Model DH/BH/HS 125 Series Airplanes, Excluding Model 125-700A, -800A, and -1000A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model DH/BH/HS 125 series airplanes. This

proposal would require a one-time visual inspection of both upper wing skins for corrosion, and if necessary, repair of corroded parts. This proposal is prompted by reports of corrosion on the left and right wing top skins under the boundary layer fence. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the wings.

DATES: Comments must be received by March 10, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103. Attention: Rules Docket No. 91-NM-261-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-261-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention Rules Docket No. 91-NM-261-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model DH/BH/HS 125 series airplanes, excluding Model 125-700A, -800A and -1000A series airplanes. The Civil Aviation Authority advises that cases have been reported of corrosion on the left and right wing top skins under the boundary layer fence. If uncorrected, this condition could result in reduced structural integrity of the wings.

British Aerospace has issued Service Bulletin S.B. 57-73, dated July 30, 1991, which describes procedures for conducting a visual inspection of the left and right wing upper skins for corrosion beneath the boundary layer fence, and repair of certain corroded parts, if necessary. The Civil Aviation Authority has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time visual inspection of both upper wing skins for corrosion, and repair of corroded parts, if necessary. In addition operators would be required to submit a report of inspection results to British Aerospace. These actions would be required to be accomplished in accordance with the service bulletin previously described.

This is considered interim action. The manufacturer intends to review the reports of inspection results and, from them, develop any necessary additional inspection requirements to adequately control the corrosion, or develop design modifications to prevent the subject corrosion problem. Once these additional inspection requirements or design modifications are developed and approved, the FAA may consider additional rulemaking action.

It is estimated that 175 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,250.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91–NM–261–AD.

Applicability: Model DH/BH/HS 125 series airplanes, excluding Model 125–700A, –800A, and –1000A series airplanes; as listed in British Aerospace Service Bulletin S.B. 57–73, dated July 30, 1991, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Within 3 months after the effective date of this AD, visually inspect left and right wing upper skins for corrosion beneath the boundary layer fence, in accordance with British Aerospace Service Bulletin S.B. 57–73, dated July 30, 1991.

(1) If any corroded parts are found in which the corrosion is within the limits specified in British Aerospace Service Bulletin S.B. 57–73, dated July 30, 1991, prior to further flight, repair in accordance with that service bulletin.

(2) If any corroded parts are found in which the corrosion exceeds the limits specified in British Aerospace Service Bulletin S.B. 57–73, dated July 30, 1991, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of inspection findings to British Aerospace, in accordance with Appendix A of British Aerospace Service Bulletin S.B. 57–73, dated July 30, 1991. Report all findings, including nil defects to: Service Support Manager, BAe 125, British Aerospace (Commercial Aircraft) Ltd., Corporate Aircraft Division (H121), Customer Support Department, Comet Way, Hatfield, Hertfordshire, AL 10 9TL, England; fax 0707 251216; telex 21429 (BAA HPS–G). Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21 199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 8, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–1492 Filed 1–21–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–260–AD]

Airworthiness Directives; British Aerospace Model BAe 125–800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 125–800A series airplanes. This proposal would require an eddy current inspection of the rudder pedal torque tubes, and replacement of any defective or cracked parts. This proposal is prompted by reports of longitudinal defects/cracks in rudder pedal torque tubes. The actions specified by the proposed AD are intended to prevent failure of the rudder pedal torque tubes, which could lead to reduced controllability of the airplane.

DATES: Comments must be received by March 10, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–260–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–260–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention Rules Docket No. 91–NM–260–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 125–800A series airplanes. The Civil Aviation Authority advises that cases have been reported of longitudinal defects/cracks in rudder pedal torque tubes manufactured from a particular batch of material. If uncorrected, this condition could result in failure of the rudder pedal torque tubes, which could lead to reduced controllability of the airplane.

British Aerospace has issued Service Bulletin SB 27–155, dated August 16, 1991, which describes procedures for a high frequency eddy current inspection of the rudder pedal torque tubes, and the replacement of any defective or cracked

torque tubes. The service bulletin recommends that the high frequency eddy current inspection be accomplished in accordance with BAe Non Destructive Testing (NDT) Technique number 27-20-101, which is included as Appendix A1 of the service bulletin. The Civil Aviation Authority has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a high frequency eddy current inspection of the rudder pedal torque tubes to detect defects or cracks, and replacement of any defective or cracked torque tubes, if found. The actions would be required to be accomplished in accordance with the service bulletin previously described.

It is estimated that 20 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,700.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91-NM-260-AD.

Applicability: Model BAe 125-800A series airplanes, having NA numbers as listed in British Aerospace Service Bulletin SB 27-155, dated August 16, 1991, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 3 months after the effective date of this AD, inspect the rudder pedal torque tubes (for per airplane) for defects or cracks, using BAe High Frequency Eddy Current Inspection Technique No. 27-20-101, in accordance with British Aerospace Service Bulletin SB 27-155, dated August 16, 1991.

(b) If any defects or cracks are detected that exceed the limit specified in British Aerospace Service Bulletin SB 27-155, dated August 16, 1991, prior to further flight, replace them with serviceable components in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirement of this AD can be accomplished.

Issued in Renton, Washington, on January 8, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-1488 Filed 1-21-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-272-AD]

Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1123, 1124, and 1124A Westwind Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to all Israel Aircraft Industries (IAI), Ltd., Model 1123, 1124, and 1124A Westwind series airplanes, which currently requires repetitive visual inspections to detect corrosion on the lower exterior surface of the aileron torque transfer tubes. This action would require replacement of the aileron control rod assemblies. This proposal is prompted by results of a recent evaluation of aileron control rod assemblies which demonstrated the need to replace all rod assemblies with improved rod assemblies. The actions specified by the proposed AD are intended to prevent reduced controllability of the airplane.

DATES: Comments must be received by March 9, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-272-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Astra Jet Corporation, Technical Publications, 77 McCullough Drive, suite 11, New Castle, Delaware 19720. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA

98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–272–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–272–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On May 18, 1990, the FAA issued AD 90–10–04, Amendment 39–6589 (55 FR 18304, May 2, 1990), to require repetitive visual inspections to detect corrosion on the lower exterior surface of the aileron torque transfer tubes. That action was prompted by a report of multiple holes found in an aileron torque transfer tube due to corrosion. The requirements of that AD were intended to prevent reduced controllability of the airplane.

Results of a recent evaluation of aileron control rod assemblies that had been inspected since issuance of the existing AD have revealed a need to require the replacement of the currently-installed aileron control rod assemblies with new rod assemblies that have been manufactured with improved corrosion protection. Installation of these improved assemblies will preclude the corrosion problem addressed by the existing AD.

Astra Jet Corporation has issued Revision 2 to Service Bulletins 1123–27–026 (for Model 1123 Westwind series airplanes) and 1124–27–100 (for Model 1124 and 1124A Westwind series airplanes), both dated April 24, 1991, which describe procedures for replacement of aileron control rod assemblies with improved rod assemblies. The Civil Aviation Administration of Israel (CAAI) has classified these service bulletins as mandatory and has issued Israeli Airworthiness Directive 91–02 in order to assure the airworthiness of these airplanes in Israel.

This airplane model is manufactured in Israel and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority of Israel, has kept the FAA totally informed of the above situation. The FAA has examined the findings of the CAAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 90–10–04 with a new AD that would continue to require repetitive visual inspections to detect corrosion on the lower exterior surface of the aileron torque transfer tubes; it would also require the eventual replacement of aileron control rod assemblies with improved assemblies. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 240 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per manhour. Required parts would cost approximately $3,568 ($1,784 per aileron control rod assembly) per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $895,920.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided udner the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6589, and by adding the following new airworthiness directive:

Israel Aircraft Industries (IAI), LTD.: Docket 91–NM–272–AD. Supersedes AD 90–10–04, Amendment 39–6589.

Applicability: Model 1123, 1124, and 1124A Westwind series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 20 hours time-in-service after May 18, 1990 (the effective date of AD 90–10–04, Amendment 39–6589), and thereafter at intervals not to exceed 150 hours time-in-service, perform a detailed visual inspection

to detect evidence of corrosion, such as pits, and/or blisters under the paint, on the lower exterior surface of the aileron torque tubes, in accordance with Astra Service Bulletin 1123–27–026 (for Model 1123 Westwind series airplanes), Revision 1, dated April 25, 1990; or Astra Service Bulletin 1124–27–100 (for Models 1124 and 1124A Westwind series airplanes), Revision 1, dated April 25, 1990.

(b) If corrosion or cracks are found as a result of the inspections required by paragraph (a) of this AD, prior to further flight, remove and replace the aileron control rod assemblies with improved assemblies, P/N 513506–503 RD or RE, in accordance with Astra Service Bulletin 1123–27–026 (for Model 1123 Westwind series airplanes), Revision 1, dated April 25, 1990, or Revision 2, dated April 24, 1991; or Astra Service Bulletin 1124–27–100 (for Models 1124 and 1124A Westwind series airplanes), Revision 1, dated April 25, 1990, or Revision 2, dated April 24, 1991; as applicable.

(c) Within 150 hours time-in-service after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs first, replace the left and right aileron rod assemblies with improved rod assemblies, P/N 513506–503 RD or RE, in accordance with Astra Service Bulletin 1123–27–026 (for Model 1123 Westwind series airplanes), Revision 2, dated April 24, 1991; or Astra Service Bulletin 1124–27–100 (for Models 1124 and 1124A Westwind series airplanes), Revision 2, dated April 24, 1991; as applicable.

(d) Replacement of the left and right aileron rod assemblies with improved rod assemblies, P/N 513506–503 RD or RE, in accordance with Astra Service Bulletin 1123–27–026 (for Model 1123 Westwind series airplanes), Revision 2, dated April 24, 1991; or Astra Service Bulletin 1124–27–100 (for Models 1124 and 1124A Westwind series airplanes), Revision 2, dated April 24, 1991; as applicable; constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 7, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–1487 Filed 1–21–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 91–NM–276–AD]

Airworthiness Directives; McDonnell Douglas Models DC–8–61, –62, –63, and –73 Series Airplanes Equipped With a Cargo Conversion Modification Installed in Accordance With Supplemental Type Certificate (STC) SA1802SO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Models DC–8–61, –62, –63, and –73 series airplanes equipped with a specific cargo conversion modification. This proposal would require modification of the cargo area subfloor structure, installation of fuselage overhead external doubler straps, installation of transverse cusp membranes, and re-attachment of the longitudinal cusp membrane to the seat track outboard flange. This proposal is prompted by the discovery of design deficiencies in the modification. The action specified by the proposed AD are intended to prevent reduced structural integrity of the cargo compartment and possible loss of cargo restraint capability during emergency landing conditions.

DATES: Comments must be received by March 9, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–276–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Rosenbalm Aviation, Inc., c/o Zantop International Airlines, Macon Municipal Airport, P.O. Box 10138, Macon, Georgia 31297. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Altanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Cundy, Aerospace Engineer, Airframe Branch, ACE–120A, FAA Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991–2910; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–276–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–276–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

Recently, a repair station performing periodic maintenance on a Model DC–8 series airplane discovered design deficiencies of the Supplemental Type Certificate (STC) SA1802S0 data concerning the attachment of the 9g forward bulkhead to the floor substructure. Further investigation revealed that the overhead fuselage section external doublers at the 9g bulkhead did not extend far enough forward to attach the upper beams to the 9g bulkhead, and that the cargo floor seat track structure needed to be attached to the fuselage cusp membrane in order to provide an adequate load path for hoop-tension loads. This condition, if not corrected, could result

in reduced structural integrity of the cargo compartment and possible loss of cargo restraint capability during emergency landing conditions.

The FAA has reviewed and approved Rosenbalm Aviation, Inc., Service Bulletin DC–8 51–01, dated May 1, 1991, which describes procedures for modification of the cargo area subfloor structure and installation of fuselage overhead external doubler straps. The actions described in the service bulletin are divided into two work areas. Procedures in area one, the cargo area subfloor structure, consist of (1) the addition of a series of steel plates, (2) the addition of an arrangement of aluminum longitudinal plates, (3) the addition of channels and angles at fuselage station 80, (4) the replacement of supports to the subfloor structure, (5) the replacement and attachment to the outboard seat track flange of the existing cusp membrane with aluminum plates, (6) the replacement of an existing ZEE angle which is acting as a dust cover from the outboard flange of the seat track at the left butt line with heavier guage ZEE angles, and (7) the replacement of a section of the cargo flooring. Procedures in area two, the external fuselage overhead skin, consist of the addition of shims and doubler straps to the fuselage overhead skin at each of the 9g bulkhead beam upper attachment points at the left and right butt lines from fuselage station 55 to fuselage station 100.

In addition, the FAA has reviewed and approved Rosenbalm Aviation, Inc., Service Bulletin DC–8 51–02, dated June 1, 1991, which describes procedures for the installation of transverse cusp membranes and re-attachment of the longitudinal cusp membrane to the seat track outboard flange. The transverse cusp membrane installation consists of a series of aluminum plates installed at various locations throughout the fuselage subfloor structure. The longitudinal cusp membrane requires re-attachment to the seat track outboard flange by installing aluminum plates attached to the seat track flange and the existing longitudinal cusp membrane along with aluminum shims.

After examining the circumstances and reviewing all available information related to the situation described above, the FAA has determined that AD action shall be taken to prevent reduced structural integrity of the cargo compartment and possible loss of cargo restraint capability during emergency landing conditions.

Since the unsafe condition described is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the cargo area subfloor structure, installation of fuselage overhead external doubler straps, installation of transverse cusp membranes, and re-attachment of the longitudinal cusp membrane to the seat track outboard flange. The actions would be required to be accomplished in accordance with the service bulletins previously described.

There are approximately 12 Model DC–8 series airplanes of the affected design in the worldwide fleet. It is estimated that 11 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 380 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $12,500 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $367,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 91–NM–276–AD.

Applicability: Models DC–8–61, –62, –63, and –73 series airplanes equipped with a cargo conversion modification installed in accordance with Supplemental Type Certificate (STC) SA1802SO, certificated in any category.

Compliance: Required within 180 days after the effective date of this AD, unless accomplished previously.

To prevent reduced structural integrity of the cargo compartment and possible loss of cargo restraint capability during emergency landing conditions, accomplish the following:

(a) Modify the cargo area subfloor structure and install fuselage overhead external doubler straps, in accordance with Rosenbalm Aviation, Inc., Service Bulletin DC.8 51–01, dated May 1, 1991.

(b) Install transverse cusp membranes and re-attach the longitudinal cusp membrane to the seat track outboard flange, in accordance with Rosenbalm Aviation, Inc., Service Bulletin DC–8 51–02, dated June 1, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office, Small Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Atlanta Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 7, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–1489 Filed 1–21–92; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-15; Notice 2]

RIN 2127-AC85

Federal Motor Vehicle Safety Standards; Glazing Materials

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 205, Glazing Materials, to revise the light transmittance requirements to replicate real-world conditions more closely. This notice proposes to measure light transmittance of window glazing in a laboratory test at the angle at which the window is mounted in a vehicle, rather than at the 90 degree angle specified in the current standard. In addition, the proposed amendment would adjust the required light transmittance levels in the standard in response to the new test procedure and other considerations. The proposed amendment would also make the light transmittance requirements consistent for passenger cars and light trucks.

DATES: Comment closing date: Comments on this notice must be received on or before March 23, 1992.

Proposed effective date: If adopted, compliance with these amendments would be mandatory on September 1, 1994. NHTSA is considering allowing voluntary compliance with the amendments either immediately or 30 days after publication of the final rule.

ADDRESSES: All comments on this notice should refer to the above docket and notice numbers and be submitted to the following: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. It is requested that 10 copies be submitted. The Docket is open from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-6346).

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Standard

Federal Motor Vehicle Safety Standard No. 205, Glazing Materials (49 CFR 571.205), specifies performance requirements for the types of glazing (i.e., glass for windows) that may be installed in motor vehicles. The standard also specifies the vehicle locations in which the various types of glazing may be installed. Standard No. 205 was adopted as part of the initial Federal Motor Vehicle Safety Standards, published in the **Federal Register** on February 3, 1967 (32 FR 2408). The National Traffic and Motor Vehicle Safety Act of 1966 (the Safety Act), signed on September 9, 1966, required the issuance of these initial standards, based upon the existing safety standards of various organizations, by January 31, 1967. Standard No. 205 was based on the "American Standard Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways" of the United States of America Standards Institute, now the American National Standards Institute (ANSI). The standard currently incorporates by reference ANSI Standard Z26.1 "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," as amended through 1980 (ANS Z26). The requirements in ANS Z26 are specified in terms of performance tests that the various types or "items" of glazing must pass. ANS Z26 also specifies the locations in which each type of glazing may be installed. For passenger cars, Item 1 or Item 14 glazing normally must be installed in the windshield. Either Item 1, Item 2, or Item 14 glazing normally must be installed in side and rear windows of passenger cars.

Item 1, Item 2, and Item 14 glazing are currently required to meet the luminous transmittance test of ANS Z26 (Test Number 2). This is a laboratory test in which the luminous transmittance of the glazing is measured when the glazing is perpendicular to the measuring device. Only glazing which meets the 70 percent light transmittance requirement may be installed in passenger cars, with minor exceptions. Those exceptions involve the use of bullet-proof glass (i.e., Item 11 glazing). Item 11 glazing may be installed anywhere except the windshield if the combined parallel luminous transmittance with perpendicular incidence through both the Item 11 glazing and the permanent vehicle glazing is at least 60 percent.

For buses, trucks, and multipurpose passenger vehicles (MPV's), Item 1 or Item 14 glazing normally must be installed in the windshield, and Item 1, Item 2, or Item 14 glazing normally must be installed in the windows to the immediate right and left of the driver and in any rear or rear side window requisite for driving visibility. The standard does not specify which rear and rear side windows are requisite for driving visibility. As explained above, Item 1, Item 2, and Item 14 glazing must meet the 70 percent light transmittance test. However, Item 3, Item 9, and Item 12 glazing, which are not subject to the 70 percent light transmittance requirements, may be installed in rear windows in buses, trucks, and MPV's that are not requisite for driving visibility. In addition, Item 5 glazing (which is not subject to the 70 percent light transmittance requirements) may be installed if the rear window is not requisite for driving visibility and other means of visibility to the side and rear of the vehicle are provided. Item 3 glazing is commonly installed in sightseeing buses, in which all windows behind the driver are darkly tinted. Item 3 glazing is also installed in the rear and rear side windows of some MPV's.

On April 23, 1991, NHTSA published a final rule creating a new Item 15A, which is required to meet the luminous transmittance test of ANS Z26 (56 FR 18256). This item of glazing may be used anywhere in most motor vehicles, except the front windshield. As discussed more fully later in this notice, NHTSA is proposing to redesignate this glazing as Item 15.

As mentioned above, light transmittance of glazing is measured in a laboratory test with the glazing perpendicular to the measuring device, instead of at the angle at which it is mounted in the vehicle. Vehicle glazing transmits the maximum amount of light when it is mounted perpendicular to the line of sight (i.e., at an angle of 90 degrees), as in the current Standard No. 205 test. As the mounting angle decreases, the amount of light transmitted by the windshield also decreases. For example, windshield glazing with a light transmittance of 73 percent when tested perpendicular to the measured light beam, would have a light transmittance of about 65 percent when tested at a typical windshield rake (i.e., mounting) angle of 60 degrees. (A rake angle of 60 degrees from the vertical axis places the sample at a 30 degree angle with respect to the horizontal light beam representing the line of sight.)

The amount of light transmitted through vehicle glazing affects the ability of the driver to see objects on the road. Low light transmittance can make it particularly difficult to spot low contrast objects, such as pedestrians, whose luminance and coloring causes them to blend in with the background of the roadside environment. The effect of low light transmittance levels on the driver's vision is most pronounced at dusk and night when the ambient light level is low. This is because the

"contrast sensitivity" of the eye diminishes as the overall brightness of the scene decreases. This lower contrast sensitivity makes it more difficult to discern low contrast objects. This problem is most acute for older drivers who have poorer visual contrast sensitivity. Visual contrast sensitivity declines by a factor of two about every 20 years after age 30. Thus, older drivers have poorer dusk and night vision.

B. Petition for Rulemaking

On August 10, 1988, Gila River Products, Inc., Madico, Inc., Martin Processing, Inc., and 3M Energy Control Products petitioned NHTSA to amend Standard No. 205 "to permit 35 percent minimum luminous transmittance plastic film on glazing in the side and rear locations of passenger cars." Since the minimum light transmittance for such motor vehicle glazing is 70 percent, this would effectively permit a total light transmittance of as low as 24.5 percent. On January 11, 1989, NHTSA granted the petition in a letter to the petitioners. However, NHTSA stated in its letter that the granting of the petition did not necessarily mean that the standard would be revised as requested. Instead, it signified "that the agency believes that a review of the issues raised in the petition appears to have merit." To aid in that review, NHTSA issued a Request for Comments on July 20, 1989 (54 FR 30427). The Request for Comments included 85 questions for the public on the issues raised by the petition for rulemaking. NHTSA received over 100 comments from a variety of groups in response to the Request for Comments. The comments are available for public review in Docket 89–15, Notice 1.

NHTSA received many comments from police departments and other safety groups opposing allowing darker tinting. These commenters where concerned about the ability of the police to see occupants and objects in vehicles with darker tinting and about traffic safety risks. The Insurance Institute for Highway Safety, the Motorcycle Safety Foundation, and the American Optometric Association opposed any reduction in the required level of window light transmittance under Standard No. 205. They stated that the current level of light transmittance was necessary, particularly for older drivers and for night driving. United States automobile manufacturers did not support the amendment to Standard No. 205 requested by petitioners. They advocated more research to define driving visibility needs and opposed allowing additional tinting unless research shows that driver and police safety would be maintained. They further indicated that they were pursuing technological advances to reduce solar loads without reducing safety. Three German automobile manufacturers, Flachglas AG (a German glazing manufacturer), and TUV Rheinland (a European research institute working on visibility issues) supported allowing darker tinting for rear and rear side windows, but opposed it for front side windows. A number of commenters submitted the results of research to support their positions. The petitioners and other commenters stated that darker tinting reduces solar heat transmittance. They stated that this would increase the comfort of vehicle occupants and reduce chloroflorocarbon (CFC) emissions, thus providing environmental benefit.

The House Appropriations Committee Report accompanying the Department of Transportation Appropriations Act for Fiscal Year 1991, requested NHTSA to report to the House and Senate Committees on Appropriations on the adequacy of current regulations governing window tinting. The report was to include information on (1) the current performance requirements in the Federal standard concerning window light transmittance, (2) how vehicles on the road today (particularly newer cars) compare to the standard's requirements, (3) the rules and regulations other countries have in effect on light transmittance through windows, (4) research on the effect of various tinting levels on depth perception, night vision, or other faculties that affect safety. If possible, the report was to reach some conclusions on what level of tinting results in unsafe conditions.

II. Analysis of Issues

NHTSA analyzed the issues raised in the petition for rulemaking, in the many comments submitted in response to the Request for Comments, and in the House Appropriations Committee Report. For example, NHTSA conducted analyses of the potential benefits of more heavily tinted vehicle windows and of the potential effect on safety of various levels of light transmission. NHTSA also analyzed law enforcement issues presented by window tinting and reviewed the light transmittance requirements in other nations. That analysis is discussed in the NHTSA Report to Congress On Tinting of Motor Vehicle Windows and summarized below. (The Report to Congress is available for public review in Docket 89–15, Notice 1).

A. Suggested Benefits of Tinting

The petitioners and some other commenters asserted that tinting has a number of benefits. The benefits asserted include a reduction in heat and energy transmittance, which they asserted increases driver comfort and awareness and decreases use of air conditioning, thus reducing fuel consumption and CFC emissions; a reduction in ultraviolet radiation, which damages human eyes and skin and vehicle interiors; a reduction in the presence of excessive amounts of visible light, which they assert may affect driver performance as much as inadequate levels of visible light and also cause retinal damage and fatigued eye muscles; a reduction in glare; and a reduction in lacerations and ejections. Potential benefits not identified by commenters include increased privacy and aesthetic appeal. Below, NHTSA analyzes the potential benefits of window tinting.

1. Reduction in Heat and Energy Transmittance

A number of commenters, including automobile manufacturers and tinting film manufacturers, stated that window tinting can reduce the amount of solar energy entering a vehicle. They suggested that window tinting allows reductions in air conditioning system size and CFC emissions and increases in fuel economy.

NHTSA believes that window tinting is one approach to reduce the solar energy entering a vehicle. However, there are other approaches that are as effective or more effective.

Sunlight contains a range of wavelengths comprising the visible light spectrum, as well as shorter ultraviolet wavelengths and longer infrared wavelengths which are not visible to humans. Fifty-two percent of the heat of the sun is from the visible spectrum, 2 percent is from the ultraviolet spectrum, and 46 percent is from the infrared spectrum. Light striking a window may be either transmitted, reflected, or absorbed. Glass can be manufactured to filter certain frequencies by reflection or absorption while transmitting other frequencies. Heat absorbing glass can be manufactured to transmit about 70 percent of the visible light while blocking about 90 percent of the infrared light. A drawback of heat absorbing glass is that some of the solar energy absorbed by the glass still enters the vehicle because the glass is heated. Almost one-third of absorbed heat would eventually enter a moving car by radiation and convection, and close to one-half would eventually enter a parked car.

Another approach to limit the solar load is to design glass to reflect solar

energy. The reflectivity of conventional clear or tinted glass is almost entirely in the visible spectrum. The reflectivity is limited to avoid creating blinding glare for other drivers. However, a glass that preferentially reflects infrared light would block solar heat without causing visible glare. Coatings which filter infrared light by reflection are commercially available, but they must be used between layers of laminated glass because they are delicate. Some production vehicles use infrared reflective windshields, but this technology is not used for side and rear windows because of its high cost.

In the Report to Congress, NHTSA analyzed the typical transmittance, reflectance, absorption, and solar load characteristics of various glazing chocies (i.e., clear glass, standard tinted glass, heat absorbing glass, typical tint film with clear glass, standard privacy glass, and multi-layer coated glass). That analysis is presented in Table 4 of the Report and the accompanying text and is summarized below. Information concerning the visible light transmittance of the glazing choices analyzed is presented in Table B1 of the Report to Congress.

NHTSA estimates that standard tinted glass (with 79 percent light transmittance), which is standard equipment in most new vehicles, reduces the solar load about 15 percent compared to clear glass. NHTSA estimates that heat absorbing glass (with 72 percent light transmittance) reduces the solar load about 18 percent, compared to standard tinted glass. NHTSA estimates that typical tinting film (with 35 percent light transmittance), applied to clear glass, reduces the solar heat load about 13 percent, compared to standard tinted glass. NHTSA estimates that typical tinting film filters about 33 percent of the infrared light and passes about 35 percent of the visible light for a combined solar transmittance of 48 percent. This compares to heat absorbing glass, which NHTSA estimates filters about 90 percent of the infrared light and passes about 70 percent of the visible light, for a combined solar transmittance of 41 percent. Standard privacy glass also transmits more infrared than visible light because of its gray color. It achieves a 31 percent reduction in solar load, compared to standard tinted glass, with a 72 percent loss of visible light. Multi-layer coated glass achieves the same solar load reduction as privacy glass, but had only an 11 percent loss in visible light, compared to standard tinted glass.

NHTSA estimates that about 25 percent of the load on non-recirculating auto air conditioners and about 50 percent of the load on recirculating air conditioners results from the solar load passing through glazing. The solar load attributable to glazing may reach 70 percent for a parked car. Windows covered with tinting film would decrease the air conditioning load between 3 and 7 percent. The solar load for a parked car is not appreciably reduced by tinting film, since the inside of the window is heated. Heat absorbing glass would reduce the solar load about 5 to 9 percent, and multi-layer coated glass would reduce it about 8 to 15 percent.

Current multi-layer coated glass is relatively efficient in reducing the solar load while maintaining visibility. In addition, new technologies, such as electrically variable transmittance and directionally variable transmittance are being developed to provide higher night visibility, while reducing solar loads.

NHTSA concludes that the tinted glass reduces the solar load of a vehicle relatively little. Since only a small portion of a vehicle's fuel consumption is the result of air conditioning, the reduction in fuel consumption from window tinting or glass with an advanced coating is relatively small. Similarly, tinted glass would result in only a relatively small decrease in CFC emissions from vehicle air conditioners.

2. Reduction in Ultraviolet Radiation

Commenters also stated that window tinting causes a reduction in ultraviolet radiation, which damages human eyes and skin and vehicle interiors. Some have argued that window tinting can protect persons with skin conditions that are aggrevated by exposure to sunlight.

NHTSA has analyzed this issue and agrees with the comment of the American Optometric Association that there is no evidence that additional tinting will have any significant effect on preventing eye damage due to ultraviolet (or infrared) exposure. NHTSA believes that window tinting has relatively little benefit in preventing harm to persons with skin conditions that are aggrevated by exposure to sunlight. These skin conditions are most likely aggrevated by exposure to ultraviolet light. Plastic is effective in blocking ultraviolet light. It may be formulated to block out 97 percent of the ultraviolet light. In addition, as pointed out by the California Highway Patrol, clear film is just as effective in blocking ultraviolet light as is tinting film. Further, as also pointed out by the California Highway Patrol, tinted glazing does not increase a vehicle occupant's protection from the most harmful type of ultraviolet rays (i.e., UV-A rays). Instead, the glass itself, with or without tinting, blocks or absorbs the UV-A rays. Tinting film blocks the least harmful kind of ultraviolet radiation (i.e., UV-B rays) which usually affect only persons taking photo-sensitizing medications.

3. Reduction in the Presence of Excessive Amounts of Visible Light

The petitioners also asserted that window tinting causes the reduction in the presence of excessive amounts of visible light, which they assert may affect driver performance as much as inadequate levels of visible light and may also cause retinal damage and fatigued eye muscles. Assuming that the assertions of the petitioners are correct, "excessive amounts" of visible light can be reduced through use of sunglasses. Of course, sunglasses, unlike window tinting, normally do not detract from night vision since they can easily be removed at night. NHTSA also notes that "excessive amounts" of light would be most noticed through the windshield. However, the petitioners did not request any change to the light transmittance requirements of windshields.

4. Reduction in Glare

The petitioners and other commenters stated that tinted glazing causes a reduction in glare. Glare is the sensation produced by a source within the visual field sufficiently bright, in comparison to the background luminance to which the eyes have become accustomed, to cause discomfort or loss of visual performance. The disabling effects of glare diminish rapidly with an increase in the angle between the glare source and the object being viewed by the driver. Thus, the only significant disabling glare sources are those in the forward field of view. Side and rear tinting would have no effect on glare sources viewed through the front windshield. In fact, it could make the glare problem worse by reducing the background luminance to which the eyes are adapted. Glare during the day can be reduced most effectively through use of sunglasses, which can be removed at night.

Rear window tinting may have benefit in reducing glare sources in the rear view mirror. However, these glare sources can also be overcome by using the night setting on the mirror. This would reduce the reflectance by a factor of ten, while window tinting would only reduce incoming light by a factor of three.

5. Reduction in Lacerations and Ejections

The petitioners and some other commenters asserted that tinting film would reduce the number of persons suffering laceration injuries from broken window glass and the number of persons ejected through broken window glass. NHTSA does not agree with these assertions. NHTSA does not believe that the tempered glass used in side and rear windows is likely to cause severe lacerations since it breaks into very small pieces with relatively smooth edges. NHTSA understands that anti-lacerative plastic coatings are being applied to the inner surfaces of some automotive windows by glazing manufacturers. However, this material is different from tinting film. The thickness of the anti-lacerative coatings is about ten times the thickness of tinting film. Further, NHTSA does not believe that tinting film can prevent ejections since it is not fastened to the window frame. finally, assuming hypothetically that tinting film has some ability to reduce lacerations and ejections, NHTSA agrees with the California Highway Patrol that an untinted film would reduce lacerations and ejections as well as a tinted film.

6. Increased Privacy and Aesthetic Appeal

NHTSA believes that other reasons persons choose to have tinting film installed on their vehicle include the increased privacy it affords and its aesthetic appeal. NHTSA believes that some people are willing to give up some of their ability to see out of the vehicle to restrict others from seeing in. As mentioned in the Report to Congress, NHTSA believes that these people include those wanting to hide that they are traveling alone, those who want to keep items in parked cars out of the sight of potential thieves, and those wanting to hide objects and actions from the casual scrutiny of the police and others. NHTSA also believes that some people like tinting film because of the aesthetic appeal of darker windows. Some people apparently believe darker windows give the vehicle a "sleek" look. NHTSA believes that these attributes of tinting film should be considered by the agency, but not at the expense of a negative impact on highway safety.

B. Potential Effect on Safety of Various Levels of Light Transmission

NHTSA also analyzed the potential effect on highway safety of various levels of light transmission. As explained in the Report to Congress, the visual detection of an object depends on its brightness contrast with the background. The brightness of an object is the amount of light reflected or emitted from the object, per unit of surface area. Contrast is the ratio of the brightness difference between the object and the background to the brightness of the background. The contrast sensitivity depends on the overall brightness of the scene. In daylight, a low contrast object, such as a dark animal on a dark road, can be seen. However, at dusk, the low contrast object would no longer be visible since the overall brightness level at dusk is insufficient to discern an object of its contrast.

The same perceptual effect can be created by viewing an object through glass panes of varying light transmittance. A low contrast object that is visible through a pane of shaded glass passing 75 percent of the light may not be discernible when viewed through a pane passing only 25 percent of the light. The contrast of the object has not changed, but the reduced brightness of the scene has caused a reduction in the contrast sensitivity.

The aging process causes a similar reduction in the contrast sensitivity of the human eye. Visual contrast sensitivity declines by a factor of two approximately every 20 years after age 30. Thus, older drivers are not able to see as well at dusk and night.

With heavily tinted glass (i.e., glass passing only about a third of the light), the scene would still be bright enough for most drivers to see low contrast objects important to driving safety during the day. At night and during adverse visibility conditions (e.g., during rain, snow, sleet, fog, and mist), high contrast objects, such as headlights, would be visible. however, low contrast objects (e.g., animals, pedestrians, vehicles without lights, road debris, and road signs) would become more difficult to see. In addition, the visual problems of older drivers would be exacerbated. With heavily tinted windows, a typical 60 year old driver would experience the effective visual acuity of a typical 80 year old driver, in many night driving situations.

1. Impact of Light Transmittance in Certain Driving Situations

There are a number of driving situations where transmittance of lesser levels of light through vehicle windows could present the potential for collisions. Petitioners did not recommend allowing lower windshield light transmittance. Thus, while NHTSA believes that heavily tinted front windshields could affect visibility of many road objects, the agency did not analyze the issue in detail. However, NHTSA analyzed the impact of tinting on visibility through other vehicle windows.

a. *Front side windows.* The direct view through the front side windows is essential at virtually every intersection. Without good visibility through the front side windows, a driver would have difficulty seeing such objects as a car without lights, a pedestrian, or a bicyclist in situations with lesser light (i.e., at night, at dusk, or in snow or rain).

Safe lane changes require direct peripheral view through side windows and indirect side views through outside mirrors. Front side tinting could seriously affect peripheral views at night because cars in the next lane could appear as low contrast objects. In addition, the driver's eyes would be adjusted to the light level passing through the relatively lightly tinted windshield and might not adjust quickly enough during the rapid side glances made in connection with lane changes. Further, with heavier tinting on front side windows, drivers would have less visibility through side view mirrors, unless those mirrors had higher reflectance than they currently do.

It would be more difficult to make eye contact with a driver of a vehicle with darkly tinted front side windows. Professional drivers are trained to make eye contact with other motorists in situations where one driver will have to yield the right of way. In addition, pedestrians normally want eye contact with a driver before walking in front of his or her vehicle. Dark front side windows could have the effect of intimidating other drivers and pedestrians, or causing them to take risky actions.

b. *Rear side windows.* Dark rear side windows could also have some effect on visibility. At intersections with acute angles, drivers may look through the rear side window. With a heavily tinted rear side window, this would be more difficult. In such a case, the driver would have to stop short of the intersection to be able to look through the front side window, if that window is less heavily tinted.

Another situation in which tinting on rear side windows could have an effect on visibility is during merging onto limited access highways. In theory, only indirect rear vision through the left side mirror is necessary to merge safely from the acceleration lane. However, some drivers look over their shoulders before merging. To the extent that drivers do not feel comfortable relying exclusively on the available mirrors, dark tinting of rear side windows could affect visibility in merging situations.

c. *Rear windows.* Similarly, dark rear windows could affect visibility in merging situations as some drivers stop and look behind them when merging. More importantly, dark rear windows could affect visibility when backing. When backing at night, at dusk, or under adverse visibility conditions (e.g., during rain, snow, sleet, fog, or mist), drivers would be less likely to see low contrast objects, such as pedestrians and parked cars. As pointed out by IIHS, this would be of particular concern when drivers back up in areas such as driveways and parking lots where small children, who are difficult to see even without heavy tinting, are likely to be present.

Dark rear windows could also affect the visibility of center high mounted stops lights (CHMSL) as pointed out by a number of commenters (e.g., Dr. Merill J. Allen of the Indiana University School of Optometry, Ford Motor Company, and Chrysler Corporation). Dark rear windows would reduce the usefulness of CHMSL's since a driver would not be able to see a CHMSL in a vehicle two or three places ahead in a line of vehicles if those intervening vehicles had dark rear windows. Similarly, interior mounted CHMSL's would be less visible through a dark rear window. Thus, drivers could lose the benefit of CHMSL's (i.e., better warning of braking by other drivers) if vehicles had dark rear windows. The petitioners asserted that tinted glazing would not have an impact on the visibility of the CHMSL of an immediately preceding vehicle since they believe that NHTSA set the illumination level for the stop lamp at a level that ensured that it would be detectable under adverse conditions. However, the minimum illumination level required for the CHMSL by Standard No. 108 is 25 candela. NHTSA does not believe that a 25 candela lamp provides adequate visibility of a CHMSL through heavily tinted glazing.

2. Research on the Relationship Between Window Light Transmittance and Highway Safety

A number of groups have conducted research on the impact of window light transmittance on highway safety. The usual method of determining whether a vehicle or driver characteristic has a significant effect on highway safety is to use accident data bases. However, an accident data base can relate vehicle features to probable accident rates only if the feature under investigation is tracked in the accident description. The existence of window tinting has not been included in the vehicle description of any data base known to NHTSA. Therefore, research has focused on the effect of window light transmittance on driving visibility, with an underlying assumption that lesser driving visibility could cause an increase in vehicle crashes. NHTSA (with Brown Engineering Company as the contractor), TUV Rheinland (with Flachglas AG as the sponsor), and the Insurance Institute for Highway Safety (IIHS) have conducted research in the area. The petitioners also conducted related research. A discussion of that research follows.

a. *NHTSA research.* The NHTSA research was designed to derive the relationship between the window light transmission levels and the ability of drivers to detect low contrast objects through the windows. The findings of the research are summarized in Figure 1 of the Report to Congress and the accompanying text. NHTSA concluded in the Report that the probability of seeing a minimum contrast object at dusk through a window transmitting 70 percent of the available light is 93 percent. However, the probability of seeing the same object through a window transmitting 50 percent of the available light is about 85 percent. Therefore, the probability of not seeing a minimum contrast object at dusk doubles (i.e., goes from 7 percent to 15 percent) when the window light transmittance is changed from 70 percent to 50 percent.

b. *TUV Rheinland Research.* TUV Rheinland (a research organization which advises the German Ministry of Transportation) conducted experiments (under the sponsorship of Flachglas AG, a major European glass manufacturer) which related visibility to driving more directly than the laboratory experiments conducted for NHTSA. TUV Rheinland had subjects use driving simulators with windshields having five different levels of light transmittance. The windshields were (1) a standard clear one (89 percent light transmittance), (2) a standard tinted one (76 percent light transmittance), (3) a standard tinted one with 1.2 percent haze, (4) a deeply tinted one (58 percent light transmittance), and (5) a very deeply tinted one (40 percent light transmittance). All of the windshields were mounted at a 55 degree angle, which reduced the line of sight light transmittance by about 4 percentage points (e.g., from 76 percent to 72 percent).

Figure 2 of the Report to Congress and the accompanying text summarizes the results of the experiment. The experiment showed that both the normally sighted subjects and the subjects wearing spectacles had little difficulty seeing high contrast objects through any of the windshields. The normally sighted group performed equally well in seeing low contrast objects through windshields of 89 percent, 76 percent, and 58 percent light transmittance. They were much less able to recognize low contrast objects through the 40 percent light transmittance windshield and the windshield with haze. The drivers wearing spectacles performed equally well in seeing low contrast objects through clear and standard tinted windshields. However, their performance declined seriously with even the 58 percent light transmittance windshield.

TUV Rheinland concluded that windshield transmittance should not be reduced because drivers with spectacles, who are a large and growing segment of the population, would have increased difficulty with night driving. Volkswagen and Flachglas AG, in their comments to NHTSA in response to the Request for Comments, used the TUV Rheinland study as a basis for advocating 30 to 40 percent light transmittance windows behind the driver and 70 to 75 percent light transmittance windows in the driver's forward 180 degree field of view. Those commenters asserted that only high contrast objects are significant in the rear field of view and that even spectacled subjects saw those objects well through 40 percent light transmittance glazing.

3. IIHS Research

IIHS performed laboratory experiments designed to measure direct visibility needs at the rear of a vehicle for safe backing. In the experiment, test subjects sat in a simulated passenger car and looked for projected images of five common roadway objects (i.e., a vehicle, a bicyclist, a pedestrian, a small child, and debris). The visual objects and the simulated car were stationary, but the images were projected to the rear and rear sides to provide a driver's view when backing a car out of a driveway. Two levels of luminous contrast of objects were used to simulate dimly lighted and moderately lighted conditions. Windows with perpendicular light transmittances of 69, 53, 36, and 22 percent were tested.

Each of the 48 test subjects (licensed drivers from 18 to 90 years of age) was shown projected objects (along with blank trials) and the subject indicated whether one of the objects was present. In general, the detection error rates increased as the rear window transmittance level decreased below 69 percent. In addition, the error rates were strongly influenced by the subject's age,

the contrast of the object, and its size. The vehicle image was detected by all subjects even with 22 percent light transmittance. However, the detection of the images of the pedestrian, the child, and the debris declined with reductions in contrast and window transmittance and increases in the age of the test subject. IIHS concluded that the experiments provided evidence that the safety of backing maneuvers during dusk and nighttime conditions are substantially compromised for all drivers looking through windows with light transmittance levels below 50 percent. They further concluded that drivers over age 55 may need higher levels of light transmittance.

a. *Research by IIT Research Institute.* The petitioners sponsored research by the IIT Research Institute (IITRI) on the impact of window tinting on visibility. The IITRI research measured the visibility of high contrast objects through glazing with various levels of light transmittance. The research showed that different levels of window tinting did not affect the viewing of high contrast objects. This is consistent with the results of the IIHS study. However, unlike the IIHS study, the petitioners' study did not measure the visibility of low contrast objects.

b. *Conclusions concerning research.* The first three studies showed a lowering of the ability to detect objects as the tint level increases. Specifically, the studies showed that it was more difficult to detect low contrast objects in dusk and other dark conditions. The IITRI study is not to the contrary since that study did not address low contrast objects. While NHTSA believes that the studies enable one to conclude that relatively low levels of light transmittance are a safety problem, the agency is unable to predict accurately the numerical relationship between vehicle collisions and window tinting.

C. Law Enforcement Issues

NHTSA also analyzed law enforcement issues as part of its review of window light transmittance requirements. In comments in response to the Request for Comments, 26 police departments or other public safety organizations opposed 35 percent transmittance tinting. These commenters stated that such tinting makes motor vehicles windows too dark for police officers to approach safely after making traffic stops. Two commenters cited examples of police officers who were shot by assailants firing through tinted windows. The commenters also stated that dark window tinging hinders their ability to spot suspicious activities and objects in moving vehicles. Some commenters also stated that it is difficult to identify hit-and-run drivers in vehicles with dark window tinting.

Two commenters cited test results to support their position that 35 percent light transmittance tinting as a safety threat to police officers. The Virginia State Police performed a test in which 111 police officers looked for unconcealed items in a car with 35 percent tinting film on the rear and rear side windows. The items they looked for were a green bag, a white plastic bag, a slim jim, cocaine straws, a machine gun, glass cutters, a knife, a blackjack, a pistol, a license plate, and a crow bar. Only 41 percent of the officers were able to see at least half of the items in the car with tinting film. In contrast, 82 percent of the officers were able to see at least half of the items in a car without tinting film on the windows.

The Maine State Police performed a demonstration experiment for a committee of the Maine state legislature. A plan clothes officer with a drawn weapon held in a shadow was seated in the rear of a car with 35 percent transmittance tinting film. None of the state legislators were able to see the gun on a bright day when approaching the vehicle. When the experiment was repeated with 50 percent light transmittance tinting film, adequate visibility was reported.

The petitioners submitted a study evaluating the ability of police officers to recognize objects and occupant movements in vehicles with varying levels of window tinting. The light transmittance of the glazing ranged from 20 percent to 70 percent The study concluded that the tinting had no detrimental effect on the ability to see into the vehicles. However, NHTSA believes that the conclusion of the study is questionable because of the methodology of the study. For example, the subjects appear to have had unlimited time to detect objects in the vehicles and may have been viewing from a point closer to the window than is considered prudent under normal police procedure. In addition, some of the findings seem counterintuitive an violate principles of visual detection. For example, in the study, (1) the ambient light level had no effect on object recognition, (2) window light transmittance had no effect on object recognition, and (3) the lowest recognition scores obtained under nighttime conditions were with the 70 percent light transmittance glazing, rather than with more heavily tinted glazing.

D. Light Transmittance Requirements in Other Nations

NHTSA also reviewed the light transmittance requirements in other nations. The Economic Commission for Europe (ECE) of the United Nations has adopted Regulation No. 43 concerning light transmittance of automotive glazing. This ECE regulation has been accepted by Germany, France, Italy, the Netherlands, Belgium, Spain, the United Kingdom, Luxembourg, Sweden, Hungary, Czechoslovakia, Yugoslavia, Austria, Finland, and Romania. The ECE Regulation No. 43 requires that the light transmittance measured perpendicular to the glazing be at least 75 percent for windshields and 70 percent for other windows essential for driving vision. The rules of the individual countries vary regarding which windows are considered essential for driving vision. The United Kingdom and most other countries accepting the ECE regulation consider rear windows and side windows to be essential for driving vision and thus subject to the requirement for 70 percent perpendicular light transmittance. However, Germany does not consider windows behind the driver to be essential for driving vision. Thus, rear and rear side windows are not subject to the light transmittance requirement in Germany.

Currently, a tentative proposals for new light transmittance requirements is under discussion within the ECE. It is based on the research performed by TUV Rheinland under contract to Flachglas AG that is discussed above. The principal provisions of the tentative proposal are:

1. A change in the method of measuring light transmittance to take into account the installed angle of the window,

2. A requirement of 65 percent light transmittance for windshields and front side windows measured at the installed angle,

3. A requirement of 30 percent light transmittance for rear side windows measured at the installed angle, assuming right and left outside rear view mirrors, and

4. A requirement that the product of the rear view mirror reflectance (typically 40 percent) and the rear window transmittance (typically 70 percent) equal 30 percent to assure adequate indirect rear vision.

The tentative proposal apparently did not address the impact of rear window light transmittance on center high mounted stop lamps, since CHMSL's are not required in Europe.

NHTSA also reviewed the light transmittance requirements in non-European nations. Japanese Standard V–25 cover light transmittance. The Japanese standard is similar to the German standard. It requires the windshield and front side windows to have a minimum of 70 percent light transmittance, but the rear and rear side widows are not subject to light transmittance requirements. There is no requirement for rear window light transmittance, in part because Japanese cars are not required to have inside rear view mirrors.

Australian Design Rule 8/00 requires at least 85 percent light transmittance in the primary vision area of the windshield. The primary vision area is defined by the 95th percentile eye ellipses used to set standards for windshield wiper and defroster systems. The other windows are required to meet the British, ECE, Japanese, or United States requirements.

E. Conclusions After Analyzing the Issues Concerning Window Tinting

After analyzing the issues concerning window tinting discussed above, NHTSA reached conclusions, which were presented in the Report to Congress. NHTSA concluded that a "wise policy on window transmittance would permit the greatest freedom to manufacturers seeking solar control that can be justified by current research, but would prevent the reduction in safety that could occur with decreased light transmittance. It would also remove the difference in light transmittance requirements between passenger vans and automobiles, thereby improving passenger van safety and making the Federal rule a more consistent signal to the states." The Report to Congress also included the following additional conclusions:

1. The light transmittance of windows on new passenger cars complying with Standard No. 205 does not present an unreasonable risk of accident occurrence. While it is not possible to quantify the safety effects of lowering the light transmittance through window tinting, data indicate that extensive tinting can reduce the ability of drivers to detect objects, which could lead to an increase in accidents.

2. A change in the way light transmittance is measured in Standard No. 205 may be appropriate. Currently, the Standard requires the test to be performed on a sample of the glass with the light directed perpendicular to the glass. A change to perform the test at the angle the glass is installed on the vehicle, along the driver's line of sight could be based on the performance of production cars since, as noted [in paragraph one above], windows in these vehicles provide light transmittance which does not present an unreasonable risk of accident occurrence.

3. Because light trucks, including pick-ups, vans and sport utility vehicles, have become personal transportation vehicles, it may be appropriate to harmonize light transmittance of these vehicles with the requirements of passenger cars.

4. The benefits of tinting do not appear great enough to justify any loss in safety that may be associated with allowing excessive tinting of windows. Further, technology already being applied in production car windows can reduce the heat build up in the occupant compartment while preserving the driver's visibility. A greater reduction in the ability of drivers to see through the windshield, rear window or front side windows would be expected to decrease highway safety.

III. The Proposed Rule

After considering the many comments in response to the Request for Comments, analyzing other available information, and reaching the above conclusions presented in the Report to Congress, NHTSA has decided to propose an amendment to Standard No. 205. The proposed amendment would revise the test procedure for measuring light transmittance. Under the proposed amendment, light transmittance would be measured through a laboratory test procedure that would test vehicle glazing at its installation angle. In this proposed amendment, NHTSA would revise the light transmittance requirements for various windows to reflect the proposed test procedure. Under the proposed amendment, a minimum of 60 percent light transmittance would be required for the front windshield and the front side windows, a minimum of 50 percent for the rear window, and a minimum of 30 percent for the rear side windows. NHTSA is proposing to adopt the requirements discussed above for all passenger cars and all trucks, MPV's, and buses with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less. (NHTSA will refer to such trucks, MPV's, and buses collectively as "light trucks" in this preamble.) Below, NHTSA describes the proposed amendment in more detail and discusses the rationale for the proposal. NHTSA also discusses below a variety of issues that it will consider further before adopting any final rule.

A. Proposed Test Procedure

This proposed rule includes a new test procedure for measuring luminous transmittance, as specified in S5.1.1.8.1. Under the proposed procedure, each item of applicable glazing would be tested for its luminance transmittance in a laboratory procedure, much like the test procedure in ANS Z26 that is currently incorporated by reference in Standard No. 205. The proposed test procedure's principal difference is that the glazing sample's luminous transmittance would be viewed and measured at the maximum installation angle (i.e., the maximum nominal rake angle at which glazing could be installed in a motor vehicle). This would account for the effect of rake angle on light transmittance.

The proposal contains detailed specifications about how the test procedure would be conducted, including how the test sample and test apparatus would be arranged, how the light transmittance would be measured, and how the luminous transmittance ratio would be calculated. In addition, in S5.1.1.8.2, the proposal specifies detailed test conditions about the glazing material samples, the light source, and the device used to measure the luminous transmittance, known as the photoreceptor. While NHTSA believes that the proposed test procedure would be relatively simple for manufacturers to follow, it welcomes comments about the proposed test procedures and conditions. (Question 1)

In developing the proposed test procedures and conditions, the agency used as a starting point the Society of Automotive Engineer's (SAE) Recommended Practice J1203, Light Transmittance of Automotive Windshields Safety Glazing Materials and the current Test No. 2 in ANS Z26. However, the agency modified certain procedures and conditions to be in accordance with the Vehicle Safety Act's statutory criteria and to simplify certain provisions that the agency believed were unnecessarily complex. In addition, NHTSA considered proposing a different laboratory method for measuring the light transmittance of glazing at its installed rake angle. On January 2, 1981, NHTSA adopted a laboratory method for measuring light transmittance of windshields at their nominal installed rake angle as part of Standard No. 128, Fields of Direct View (46 FR 40). That laboratory method was developed for NHTSA by the National Bureau of Standards and is similar to SAE's J1203. NHTSA revoked Standard No. 128 on June 22, 1981 in response to

nine petitions for reconsideration, largely concerning issues other than the laboratory test method (46 FR 32254).

NHTSA has tentatively concluded that the proposed test method is more appropriate than the one adopted in 1981. The proposed test method, unlike the measurement technique in former Standard No. 128 and SAE Recommended Practice J1203, does not involve the complication of using the seating reference point in the measurement of light transmittance. NHTSA believes that the proposed test method is sufficient to account for the effect of the rake angle of glazing on light transmittance. A possible source of error in the proposed method (which also is present in the measurement technique in former Standard No. 128 and SAE Recommended Practice J1203) is the slight shift of the light beam on the receiving surface when the glazing is placed in the beam. If the receiver has uniform sensitivity, there would be no error. If the receiver is not uniform, it can be mapped for correction factors or replaced with a higher quality instrument. The instructions for realigning the receiver to the altered beam in the SAE Recommended Practice may also be sufficient to eliminate any error. However, NHTSA requests suggestions of possible ways to eliminate any possible source of error in the proposed test method, while avoiding unnecessary complexity. (Question 2)

B. Proposed Light Transmittance Levels

NHTSA is proposing new levels of minimum light transmittance in conjunction with the proposed test procedure to measure light transmittance. Under the proposed amendment, 60 percent "line of sight" light transmittance would be required for the front windshield and the front side windows, 50 percent for the rear window, and 30 percent for the rear side windows. NHTSA decided to propose these levels based on the policy discussed in the Report to Congress. NHTSA believes that the proposed levels would permit the greatest freedom to manufacturers seeking solar control that can be justified by current research, but would prevent the reduction in safety that could occur with decreased light transmittance. The levels are also consistent with NHTSA's conclusion in the Report to Congress that the light transmittance of windows on most new passenger cars complying with the current Standard No. 205 does not present an unreasonable risk of accident occurrence.

NHTSA obtained information from vehicle manufacturers on the line of sight light transmittance of the various windows in their vehicles. That information is presented in appendix C of the Report to Congress. NHTSA did not propose lower levels of light transmittance because of the agency conclusion in the Report to Congress that, while it is not possible to quantify the safety effects of lowering the light transmittance through window tinting, data indicate that extensive tinting can reduce the ability of drivers to detect objects, which could lead to an increase in accidents. Below, NHTSA presents its rationale for proposing a particular level of light transmittance for each window in a vehicle.

1. Front Windshields

NHTSA is proposing to require 60 percent minimum "line of sight" light transmittance for the front windshield. NHTSA believes that this level of light transmittance is sufficient for safety purposes and that a lower level could present a safety concern. In addition, the 60 percent level is close to the current level of transmittance for most vehicles. A windshield with the 70 percent light transmittance measured perpendicular as specified in the current Standard No. 205 has a line of sight transmittance of about 60 percent when mounted at a 60 degree rake angle. This combination of perpendicular light transmittance and rake angle is typical of an aerodynamically styled family sedan with a windshield of the latest design.

NHTSA knows of only two 1990 vehicle models that would not meet the proposed 60 percent line of sight light transmittance requirement for front windshields. These are the Corvette ZR1 and the Lumina MPV family. The windshields of these vehicles are much darker than the rest of the 1990 vehicle population. The Corvette ZR1 has a windshield with 71 percent perpendicular transmittance, with a rake angle of 64.7 degrees. This results in a line of sight transmittance of 58 percent. The Lumina MPV has a windshield with 71 percent perpendicular transmittance, with a rake angle of 66 degrees. This results in a line of sight transmittance of 55 percent. However, NHTSA believes that the manufacturers could make simply changes that would enable them to comply with a 60 percent minimum line of sight light transmittance requirement. The Corvette ZR1 could meet the proposed requirement by using the standard Corvette tinted windshield. This would give it a line of sight transmittance of 63.6 percent. The Lumina MPV could have a line of sight transmittance of 60 percent or more if it used a standard tinted windshield with a perpendicular transmittance of 77 percent, rather than the current metallized windshield with a perpendicular transmittance of 71 percent.

NHTSA considered proposing a line of sight transmittance level greater than 60 percent. The TUV Rheinland experiment indicated that a driver with spectacles would experience some increased difficulty seeing low contrast objects with a light transmittance level of 60 percent. In addition, the proposal being considered by the ECE recommends 65 percent line of sight light transmittance for the windshield. However, a line of sight transmittance level of greater than 60 percent for the windshield would disallow many existing vehicle designs, for which no safety problem has been identified. NHTSA does not believe that the agency should take such action based on only this one study. However, NHTSA requests comment on whether the agency should require greater than 60 percent line of sight light transmittance for the windshield. (Question 3)

2. Front Side Windows

NHTSA is proposing to require front side windows to have a line of sight light transmittance of 60 percent. This is the same level being proposed for the front windshield. NHTSA believes that all current vehicle models would comply with the proposed requirement. NHTSA chose this level because the agency believes that the light transmittance level for side vision should be the same as for front vision.

NHTSA acknowledges that front side windows could become slightly darker under the proposed amendment. However, NHTSA does not believe that this is likely to occur. In addition, NHTSA is not convinced that slightly darker side windows would present a safety problem. However, one approach to alleviate a potential safety problem would be to require a higher level of side mirror reflectance. Currently, the European mirror standard, ECE Regulation No. 46, requires side mirrors to have at least 40 percent reflectance. NHTSA Standard No. 111, Rearview Mirrors, requires a side mirror to have an average reflectance of at least 35 percent. NHTSA believes that side mirrors in most current motor vehicles have an average reflectance of at least 40 percent. NHTSA requests comment on whether the agency should amend Standard No. 111 to require side mirrors to have an average reflectance of at least 40 percent, rather than the current 35 percent. (Question 4)

3. Rear Windows

NHTSA is proposing to require 50 percent minimum line of sight light transmittance for rear windows. NHTSA is not proposing the 60 percent line of sight transmittance for three reasons. First, NHTSA believes that the 50 percent level is adequate for high contrast objects. Concerning highway driving, NHTSA generally agrees with Volkswagen that low contrast objects are less important in rear vision than in frontal vision. Second, NHTSA believes that 50 percent transmittance would be adequate to preserve the benefits of CHMSL's. Third, NHTSA believes that requiring, for example, 60 percent minimum line of sight light transmittance would disallow a number of current vehicle designs, for which no safety problem has been identified. Some vehicle models, such as the Ford Probe, have rear windows with such great rake angles that a 60 percent line of sight transmittance would not be possible even with clear glass. As stated above, NHTSA does not believe that light transmittance in most passenger cars complying with the current Standard No. 205 present an unreasonable risk of accident occurrence. However, the "privacy windows" offered as optional equipment on some MPV's would not be permitted under the proposed amendment since they have a line of sight light transmittance of 20 percent or even less.

NHTSA is also requesting comment on whether the mirror reflectance requirements for the inside rear view mirror should be changed. Currently, Standard No. 111 requires at least 35 percent reflectance for inside rear view mirrors. NHTSA requests comment on whether the mirror reflectance should be increased to 50 percent or some other level since NHTSA is proposing to allow 50 percent line of sight light transmittance for the rear window. (Question 5)

4. Rear Side Windows

NHTSA is proposing to require 30 percent minimum line of sight light transmittance for the rear side windows. All new passenger cars currently have rear side line of sight light transmittance levels above 30 percent (generally between 70 and 82 percent). In addition, MPV's currently have line of sight light transmittance levels above 30 percent for the rear side windows generally offered as standard equipment. However, "privacy windows" offered as an option on MPV's have line of sight light transmittance of less than 30 percent. In addition, privacy windows with a similar light transmittance are offered as standard equipment on the Oldsmobile Silhouette MPV. As discussed more fully below, the manufacturer of the Oldsmobile Silhouete could achieve compliance by using the windows which are standard in other vehicles in the same body family as the Silhouette. Similarly, other manufacturers would be able to use the standard windows in place of privacy windows in other MPV's.

As stated above, NHTSA believes that rear side windows are less important for driving visibility than other vehicle windows. Therefore, NHTSA believes that it is possible to allow darker tinting on such windows without significant adverse safety consequences. The rear side field of view can be preserved completely through use of dual side rear view mirrors with 40 percent minimum reflectance. While only driver's side view mirrors are required by Standard No. 111, passenger side view mirrors are included on almost all new vehicles. However, because a relatively few vehicles do not have dual side view mirrors, NHTSA requests comment on whether such mirrors should be required through an amendment to Standard No. 111. (Question 6) In addition, NHTSA requests comment on the impact of darker rear side windows on the safety of police officers. (Question 7)

C. Vehicles Covered Under the Proposal

NHTSA is proposing to adopt the requirements discussed above for all passenger cars and light trucks (i.e., trucks, MPV's, and buses with a GVWR of 10,000 pounds or less). Standard No. 205 currently applies to all light trucks. However, the standard currently does not specify which rear and rear side windows in light trucks are requisite for driving visibility. In interpretation letters, NHTSA has stated that under the current standard, rear and rear side windows in many light trucks are not considered requisit for driving visibility. Thus, glazing not subject to the 70 percent perpendicular light transmittance test may be used in such windows. Today, glass with very low light transmittance is being installed in some light trucks used as passenger vehicles. NHTSA believes that such glass may present a safety problem.

NHTSA recognizes that certain light trucks, (e.g., commercial cargo vans) currently do not have rear and/or rear side windows. The drivers of such vehicles, largely commercial drivers driving during daylight, use outside mirrors for rear visibility. This proposed rule would not require additional windows in such vehicles. Instead, the proposed amendment would require that any window in a light truck, if present, have glazing with the level of light transmittance established by the proposed amendment to Standard No. 205. Thus, rear windows, if present, would be required to have 50 percent line of sight light transmittance. Rear side windows, if present, would be required to have 30 percent line of sight light transmittance.

NHTSA requests comment on whether the proposed requirements should be applied to all types of light trucks. (Question 8) For example, should the proposed requirements be applied to buses with a GVWR of 10,000 pounds or less? In addition, is the 10,000 pounds GVWR cut-off appropriate or should a lower GVWR cut-off be adopted in the final rule? Further, NHTSA requests comment on whether all trucks, including those with a GVWR of over 10,000 pounds should be subject to the new light transmittance requirements being proposed for light trucks. (Question 9)

D. Compliance by Multi-Stage Manufacturers

NHTSA recognizes that some light trucks are manufactured in more than one stage or altered after they are certified by the original manufacturer. There are a number of final-stage manufacturers, many of which are small businesses, involved in installing truck bodies and/or work-related equipment on chassis. There are also a number of alterers involved in modifying the structure of new vehicles. Under NHTSA's regulation, a final-stage manufacturer must certify that the completed vehicle complies with all applicable safety standards and alterers must certify that the altered vehicle continues to comply with all applicable safety standards. (Throughout the rest of this preamble, the term "final-stage manufacturer" is used to refer to both final-stage manufacturers and alterers.)

Final-stage manufacturers are currently subject to the requirements of Standard No. 205 and NHTSA is not aware of any difficulties in compliance. The practical impact of the proposed amendments on final-stage manufacturers would be to require them to certify compliance with light transmittance requirements for rear and rear side windows, if such windows are present in a vehicle, as they now do for front windshields and front side windows. NHTSA does not believe that the proposed amendment would significantly affect the current compliance practices of multi-stage manufacturers.

NHTSA believes that final-stage manufacturers would generally be able to certify compliance with the Standard No. 205, without conducting compliance testing, if this proposed amendment is adopted. Under the proposed amendmemt, prime glazing manufacturers would be required to certify each piece of glazing material. The prime glazing manufacturer would certify that its glazing material would comply with the light transmittance requirements of the standard if installed in a vehicle at a certain rake angle, or range of rake angles. A final-stage manufacturer would be able to rely on the certification by the prime glazing manufacturer if the final-stage manufacturer installed the glazing material at a rake angle within the range specified.

E. Leadtime

NHTSA is proposing to make the proposed amendments effective on September 1, 1994. NHTSA anticipates that this would be at least 180 days after the publication of the final rule. NHTSA believes that this would allow sufficient time for glazing manufacturers and motor vehicle manufacturers to make the necessary changes in current vehicles. As stated above, almost all passenger car models would be in compliance with the proposed amendment, if it is adopted as a final rule. The only passenger car that the agency knows would not comply with the proposed amendment is the Corvette ZR-1. In that vehicle, only the infrared reflecting, coated front windshield would not comply. The other windows of that vehicle would be in compliance. As discussed above, NHTSA believes that it would be easy for the Corvette ZR-1 to comply by using the standard Corvette windshield.

In addition, most light trucks equipped with standard equipment would be in compliance with the proposed amendment, if it is adopted as a final rule. As discussed above, only the Lumina MPV would not comply because of its infrared reflecting, coated front windshield. However, a Lumina windshield made of standard tinted glass would comply with the proposed amendments. In addition, infrared reflecting, coated windshields would comply if they were installed with rake angles of 60 degrees or less. The front windshields in all other light trucks about which manufacturers submitted information on line of sight light transmittance to NHTSA would comply with the proposed amendments.

The privacy glass in many light trucks would not comply with the proposed amendments. However, privacy glass is normally offered as optional equipment, rather than the standard equipment for a model. NHTSA believes that the manufacturers of light trucks with optional privacy glass would only have to substitute the glazing used as standard equipment to comply. NHTSA understands that the Oldsmobile Silhouette has privacy glass as standard equipment. However, the standard windows of the Pontiac Transport and the Lumina APV would fit the Oldsmobile Silhouette. NHTSA does not believe that manufacturers would have to make any other changes in light trucks if they substituted for privacy glass.

NHTSA is not aware of particular types of glazing or particular types of motor vehicles for which additional leadtime is necessary. However, NHTSA requests comments that would identify any such glazing or motor vehicles. (Question 10)

NHTSA is considering allowing voluntary compliance with any new requirements before those requirements before mandatory. NHTSA is considering allowing such voluntary compliance either immediately or 30 days after publication of the final rule. NHTSA requests comment on this issue (Question 11)

F. Proposed Amendments to the Language of Standard No. 205

NHTSA is proposing a number of amendments to the current Standard No. 205 to accomplish the proposed changes to that standard. NHTSA proposes to add a new section S5.1.1.8 to the standard. This section would state the luminous transmittance requirements for particular windows and then state the proposed test procedure. NHTSA also proposes to require manufacturers of glazing to place a number on the glazing to represent the maximum angle at which the glazing may be installed in a motor vehicle in compliance with Standard No. 205. NHTSA does not anticipate that this proposed requirement would increase costs to manufacturers. NHTSA believes that the proposed number would be an inconsequential addition to the various codes and symbols currently required for glazing.

In addition, NHTSA is proposing other conforming changes to the standard. Currently, ANS Z26, which is incorporated by reference in the standard, describes the tests that various Items of glazing must pass and states the windows in which those Items of glazing may be installed. Since the new section S5.1.1.8 would substitute a new test procedure for the current Test No. 2 in certain cases, NHTSA is proposing new regulatory text where necessary. Specifically, NHTSA is proposing to amend Section S5.1.2.1 to state that Item 4, Item 5, Item 6, Item 7, Item 8, Item 9, Item 10, Item 11A, and Item 11B glazing may be installed in the locations of motor vehicles specified in ANS Z26. Item 1 glazing would be allowed anywhere in a truck, bus, or MPV, with a GVWR over 10,000 pounds. Under the proposed amendment, NHTSA would designate glazing which meets the tests established for Item 1 glazing (except Test No. 2) and the proposed new light transmittance test as Item 1A glazing. Item 1A glazing would be allowed anywhere in a passenger car or light truck. Similarly, Item 14 glazing would be allowed anywhere in a truck, bus, or MPV with a GVWR over 10,000 pounds and NHTSA would designate glazing which meets the tests established for Item 14 glazing (except Test No. 2) and the proposed new light transmittance test as Item 14A glazing. Item 14A glazing would be allowed anywhere in a passenger car or light truck. The proposed amendment would allow Item 2 glazing to be installed anywhere in a truck, bus, or MPV, with a GVWR over 10,000 pounds, except in a windshield. The proposed amendment would designate glazing which meets the tests established for Item 2 glazing (except Test No. 2) and the proposed new light transmittance test as Item 2A glazing. Item 2A glazing would be allowed anywhere in a passenger car or light truck, except in the windshield.

On April 23, 1991, in a rulemaking resulting from a petition from Taliq Corporation, NHTSA published a final rule creating a new category of glazing (56 FR 18256). This glazing currently must meet the luminous transmittance test of ANS Z26 and may be used anywhere, except the front windshield, in most motor vehicles. The April 1991 rule designated this glazing as Item 15A. In today's proposed rule, NHTSA proposes to redesignate that material as Item 15 glazing and to limit its use to trucks, buses, and MPV's over 10,000 pounds GVWR. The glazing would not be allowed in front windshields of these vehicles. NHTSA is proposing to limit the use of the glazing since it is subject to the old light transmittance requirements of Test No. 2. Today's proposal would designate glazing which meets the proposed new light transmittance test and the tests established for glazing in the April 1991 rule, except Test No. 2, as Item 15A glazing. This glazing would be allowed anywhere in most passenger cars or light trucks, except the front windshield. (The designations made in the April

1991 rule remain in effect until changed in a final rule.)

Recently, NHTSA proposed an amendment to Standard No. 205 that would designate a new Item 15B glazing that would be allowed anywhere, except the front windshield, in most motor vehicles (56 FR 18559, April 23, 1991). In this notice, NHTSA is proposing to limit the use of Item 15B glazing to trucks, buses, and MPV's over 10,000 pounds GVWR since that Item was proposed to comply with the old light transmittance requirements of Test No. 2. In addition, NHTSA is proposing to designate glazing which meets the tests proposed for Item 15B glazing (except Test No. 2) and the proposed new light transmittance test as Item 15C glazing. Item 15C glazing would be allowed anywhere in most passenger cars or light trucks, except in the windshield. However, consistent with the prior proposal for Item 15B glazing, the newly designated Item 15C glazing would not be allowed for use in convertibles, in vehicles that have no roof, or in vehicles with roofs that are completely removable.

NHTSA is also proposing to designate Item 11D glazing, which would be bullet-resisting glazing where the bullet-resisting glazing and the permanent vehicle glazing has a combined parallel luminous transmittance with perpendicular incidence through both the shield and the permanent vehicle glazing at least 0.85 times the transmittance required of the permanent vehicle glazing.

In addition to the provisions of the proposed amendment discussed above, NHTSA is also proposing additional changes to Standard No. 205. These changes include adding definitions of "installation angle," "luminous transmittance," "multiple glazed unit-Class 1," "multiple glazed unit-Class 2," and "prime glazing manufacturer" to the standard. Some of these definitions already appear in ANS Z26. In addition, NHTSA is proposing to amend the current definition of "motor home" to make it consistent with the definition in Standard No. 206, Occupant Crash Protection. Finally, NHTSA is proposing to amend section S5.1.1 of the standard to state that glazing materials "shall comply with" ANS Z26 in certain cases, rather than the current wording that such glazing "shall conform to" ANS Z26. NHTSA believes that the proposed wording is more consistent with similar provisions in other standards.

IV. Rulemaking Analyses

A. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has analyzed this proposed rule and determined that it is not "major" within the meaning of Executive Order 12291. However NHTSA has determined that the proposed rule is "significant" within the meaning of the Department of Transportation regulatory policies and procedures because of the significant public and Congressional interest in the rulemaking. NHTSA has estimated the costs of these proposed amendments to Standard No. 205 in a Preliminary Regulatory Evaluation which is included in the docket for this rulemaking. Briefly, the proposed amendments would prohibit the combination of the darkest current windshields and the steepest current rake angles. It would also require that the privacy windows of passenger vans become more transparent. The proposed amendments would allow the front side windows to be slightly darker than permitted under the present standard. It would allow rear side windows of passenger cars to be significantly darker than the current standard, but not as dark as the privacy windows on passenger vans. NHTSA does not believe that significant costs would be incurred to comply with the proposed amendments if they are adopted in a final rule. As discussed above, almost all passenger car models and most light trucks equipped with standard equipment would be in compliance with the proposed amendment. As also discussed above, the privacy glass in many light trucks would not comply with the proposed amendments. However, privacy glass is normally offered as optional equipment and NHTSA believes that the manufacturers of light trucks with optional privacy glass would only have to substitute the glazing used as standard equipment to comply. NHTSA does not believe that manufacturers would have to make any other changes in light trucks if they substituted for privacy glass. For example, NHTSA does not believe that light trucks without privacy glass would have to be fitted with larger air conditioning units. NHTSA does not believe that MPV's are fitted with smaller air conditioning units when option privacy glass is ordered. In addition, vehicle manufacturers have not shown that MPV's with optional glass achieve greater fuel efficiency than those with standard glass. As discussed more fully above, NHTSA believes that other items can provide the same or better protection against solar heat as window tinting. Similarly, NHTSA does not expect any improvements in fuel economy in passenger cars if somewhat darker glazing is used in some windows as allowed under this amendment. Therefore, NHTSA does not believe that the proposed amendments would have any significant impact on fuel efficiency.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. The result of its consideration appears in the Preliminary Regulatory Evaluation, which is available in the docket for this rulemaking. Based upon the agency's evaluation, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

As discussed in the Preliminary Regulatory Evaluation, NHTSA concludes that the proposed amendment would have a minimal effect on manufacturers of motor vehicle glazing. These businesses would continue to provide the same amount of glazing to vehicle manufacturers. They may provide glazing with somewhat more tint for passenger cars and glazing with somewhat less tint for light trucks.

NHTSA does not expect that the proposed amendment would significantly affect the aftermarket tint film industry for cars and light trucks. The industry is composed of tint film manufacturers, distributors, and installers. The industry consists, almost exclusively, of small businesses. The proposed amendment would not have a negative impact on aftermarket tint film installers to the extent that these installers are observing the prohibition against rendering inoperative glazing subject to the current 70 percent light transmittance requirement of Standard No. 205 for passenger cars. NHTSA believes that the proposed amendment might possibly benefit these installers. Since the amendment would allow somewhat darker glazing to be installed on new passenger cars, and since NHTSA would not take enforcement action against aftermarket businesses that install window tinting that would be permitted on new vehicles under the proposed amendment, the proposal could increase the potential legal market for installing aftermarket tint film in older passenger cars. However, the agency cannot conclusively state that the proposed amendment would result in these benefits because the agency is aware that many consumers desire tinting which results in a lower level of light transmittance than even this proposed amendment would allow. The

potential market for aftermarket installation of tint film in light trucks would change little. Further, the actual market for installing tint film on used vehicles would depend on the number of new vehicles sold without tinted glazing and consumer demand for medium to light tint film for those vehicles in the aftermarket.

NHTSA acknowledges that the proposed amendment could have a negative impact on aftermarket tint film installers who are not obeying the current requirements of Standard No. 205 (i.e., who are installing tint film which results in less than 70 percent light transmittance). One Florida District Court has held that Standard No. 205 is not currently enforceable against window tinting businesses because the agency did not issue a "new and revised Federal Motor Vehicle Safety Standard" pursuant to the second sentence of Section 103(h) of the Safety Act. *United States* v. *Blue Skies Projects, Inc.*, No. 90–253–CIV–ORL–18, (M.D. Fla., August 13, 1991). The agency notes that the court cited in its opinion the provisions of the Senate version of section 103(h) and its legislative history in the Senate report instead of the enacted version of section 103(h) and its history in the House report. NHTSA strongly believes that the court's opinion was erroneous and that the current standard is valid and enforceable. Nevertheless, it is also true that the proposed amendment would constitute a "new and revised Federal Motor Vehicle Safety Standard" within the meaning of section 103(h) and thus, even according to the reasoning of this court's ruling, would be enforceable against window tinting businesses. Consequently, to the extent that these businesses are currently installing tint film that reduces light transmittance below the levels contained in this proposal, the agency would be able to take enforcement action to prevent such installers.

NHTSA does not believe, however, that the potential negative impact of the proposed amendment on aftermarket tint film installers who are not complying with the current requirements of Standard No. 205 should affect the analysis of the proposed amendment under the Regulatory Flexibility Act. The Regulatory Flexibility Act was not intended to protect small businesses engaging in illegal conduct from the impact of a regulation that would prevent them from engaging in that illegal conduct.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the proposed rule would have no Federalism implication that warrants the preparation of a Federalism Assessment.

The proposed rule would amend existing performance requirements (including requirements for minimum levels of light transmittance) for glazing materials used in passenger cars and other motor vehicles, as well as certain procedures for compliance testing of those glazing materials. As discussed more fully below, the Safety Act prohibits states from adopting or maintaining a safety standard which is not identical to an existing Federal standard applicable to the same aspect of motor vehicle or motor vehicle equipment performance. Accordingly, any state laws establishing performance requirements applicable to the manufacture of motor vehicles or glazing materials that differ from those currently specified in Standard No. 205 are federally preempted. Similarly, and state law establishing performance requirements for manufacturers of glazing materials which differed from those contained in the proposed amendment would be preempted.

Section 103(d) of the Safety Act (15 U.S.C. 1392(d)) provides that: Whenever a Federal motor vehicle safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal standard.

Thus, a state law which established a non-identical performance standard for manufacturers of glazing materials would be preempted.

The Safety Act specifically prohibits the sale of new motor vehicle and items of motor vehicle equipment which are not in conformity with all applicable Federal Motor Vehicle Safety Standards, including Standard No. 205. Section 108(a)(1)(A) of the Safety Act (15 U.S.C. (a)(1)(A) provides that no person shall:

> Manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect * * * unless it is in conformity with such standard * * *

Thus, it would be a violation of this provision for a person to manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any item of glazing that does not comply with Standard No. 205. Further, a state law that purported to allow the manufacture or sale of new vehicles containing glazing materials that did not meet the specifications of Standard No. 205 would be preempted.

The Safety Act does not, however, prohibit the sale of used vehicles that are not in conformity with applicable safety standards. Section 108(b)(1) of the Safety Act (15 U.S.C. 1397(b)(1) states that the prohibition contained in section 108(a)(1)(A) (quoted above):

> Shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any motor vehicle or motor vehicle equipment after the first purchase of it in good faith for purposes other than resale * * *.

Hence, the Safety Act would not prohibit the sale of a used motor vehicle with glazing materials that did not meet the specifications of Standard No. 205. Moreover, a state law which applied to the glazing materials on used vehicles would not be preempted.

Moreover, both before and after the first sale to a consumer, the Safety Act imposes limits on the ability of certain businesses to alter motor vehicles and motor vehicle equipment. Pursuant to section 108(a)(2)(A) of the Safety Act (15 U.S.C. 1397(a)(2)(A)):

> No manufacturer, distributor, dealer or motor vehicle repair business shall knowingly render inoperative, in whole or in part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable Federal motor vehicle safety standard * * *.

In light of this provision, a manufacturer, distributor, dealer, or motor vehicle repair business who installs a sun screen device or window tinting that would result in a light transmittance less than that required by Standard No. 205, would be in violation of the Safety Act. Further, because the Safety Act prevents businesses from installing tinting film which results in a lower level of light transmittance than Standard No. 205 allows, a State law that purported to allow automotive businesses to make modifications violating Standard No. 205 would be preempted.

The provisions of the Safety Act quoted above do not, however, prohibit individual vehicle owners themselves from tinting the windows on their own vehicles and operating those vehicles on the highways. No provision of Federal law or this agency's regulations prevents vehicle owners from installing tinting

film, even if the owner's alternations cause the vehicle's windows to no longer comply with Standard No. 205's specifications for light transmittance.

Since Federal law does not regulate the actions of vehicle owners, individual states have the authority to regulate the modifications vehicle owners may make and to establish requirements for vehicles operated or registered in that State. For example, a State vehicle inspection law or operational requirement that imposed a light transmittance requirement lower than the level required by Standard No. 205 would not be preempted. Thus, an individual vehicle owner could apply tinting film to his or her own vehicle without violating Federal law, but that vehicle owner would be subject to any applicable State law. It is important to recognize that such a state law would not legitimize any action prohibited by Federal law. For example, a business that installed tinting that reduces light transmittance below the level required by Standard No. 205 would still be in violation of Federal law even if it had not violated state law.

As discussed more fully in the Report to Congress, 37 States have laws concerning window tinting that differ from Standard No. 205. These state laws are not Federally preempted, however, because they apply to individual vehicle owners' modification and operation of their own motor vehicle and not to aspects of motor vehicle or motor vehicle equipment performance covered by an existing Federal safety standard. The proposed rule, if adopted, would not directly affect the various State inspection and operational requirements. While some states might choose to bring their laws into conformity with the amended provisions, this does not appear to raise any Federalism implications. However, NHTSA encourages comments from the States and others on these issues. (Question 12)

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this proposed rule. The agency has determined that this proposed rule, if adopted as a final rule, would not have a significant impact on the quality of the human environment. As discussed above, NHTSA does not believe that the proposed rule would have any significant impact on fuel economy or on emissions of CFC's. A more complete discussion of potential environmental impacts appears on an Environmental Assessment, which is included in the docket for this rulemaking.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, NHTSA has determined that there are no requirements for information collection associated with this rule.

V. Comments

Interested persons are invited to submit comments on the proposal. NHTSA specifically requests comment on 12 issues in this notice. Those requests are identified by question number. NHTSA requests that commenters reference the question numbers applicable to these response to these issues. NHTSA requests, but does not require, that 10 copies of comments be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket at the above address. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date. NHTSA recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 would be amended as follows:

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.205 [Amended]

2. In 571.205, S4 would be amended by adding the following definitions:

* * * * *

Installation Angle means the angle in the vertical plane between the vertical reference line and a chord of the window running from the lower daylight opening to the upper daylight opening at the window center line, as illustrated in Figure 1. In the case of wrap-over glass, the chord is 18.0 inches (457mm) long and is drawn from the lower daylight opening to the intersecting point of the window.

* * * * *

Luminous transmittance means the ratio, expressed as a percentage, of the amount of incident light flux that reaches a designated viewing point after passing through a glazing material whose transmittance is being measured compared to the amount of incident light flux that reaches that viewing point when the material is absent.

* * * * *

Multiple glazed unit—Class 1 means two or more sheets of safety glazing material separated by an airspace or spaces and glazed in a common mounting in which each component single layer or laminated layer complies with the appropriate requirements of ANS Z26.

* * * * *

Multiple glazed unit—Class 2 means two or more sheets of safety glazing material separated by an airspace or spaces and glazed in a common mounting in which any component single layer or laminated layer does not comply with the appropriate requirements of ANS Z26.

* * * * *

Prime glazing material manufacturer means one who fabricates, laminates, or tempers glazing material.

* * * * *

3. In 571.205, S4 would be amended by revising the following definition:

* * * * *

Motor home means a motor vehicle with motive power that is designed to provide temporary residential accommodations, as evidenced by the presence of at least four of the following facilities: cooking, refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a potable water supply system including a faucet and a sink; and a separate 110–125 volt electrical power supply and/or an LP gas supply.

* * * * *

4. The first sentence of section S5.1.1 would be modified by replacing the phrase "shall conform to" with the phrase "shall comply with."

5. In § 571.205, S5 would be amended by adding S5.1.1.8 through S5.1.1.8.2.6 which would read as follows:

S5.1.1.8 Luminous Transmittance for Glazing Materials. Glazing materials for use in passenger cars, and trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less shall have, both before and after irradiation, a luminous transmittance at the installation angle of not less than 60 percent for front windshields and front side windows, 50 percent for rear windows, and 30 percent for rear side windows, when measured in accordance with the test procedures specified in S5.1.1.8.1 and the test conditions in S5.1.1.8.2.

S5.1.1.8.1 Test Procedures. Each item of glazing material for use in passenger cars, and trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less shall meet the requirements of S5.1.1.8 when tested in accordance with the procedures set forth in this section.

S5.1.1.8.1.1 Mount the glazing material so that it is aligned at the maximum installation angle marked on the window from which the sample was taken under S6.2.1 of this standard. Clean the glazing material surfaces thoroughly.

S5.1.1.8.1.2 Arrange the components of the measurement apparatus so that the major axis of the area on the glazing material surface traversed by the measuring beam is not less than 0.28 inches (7 mm) nor more than 1.57 inch (40 mm). The major axis is the maximum width of the generally elliptical spot illuminated on the glass.

S5.1.1.8.1.3 Check the photoreceptor-indicator unit reading at zero and full scale. Calibrate the complete measurement apparatus for the range of interest prior to each use with an item of control glazing of known illuminant A transmittance measured at a similar installation angle.

S5.1.1.8.1.4 Align the optical axis of the photoreceptor to be coincident with the optical axis of the measuring beam emerging from the glazing material. This common axis shall be horizontal.

S5.1.1.8.1.5 Measure and record the illumination with the glazing material in place. Measure and record the illumination without the glazing in place.

S5.1.1.8.1.6 With the glazing material and equipment repositioned as specified in S5.1.1.8.1.1 through S5.1.1.8.1.4, repeat the procedure in S5.1.1.8.1.5 with two other samples of glazing material.

S5.1.1.8.1.7 Calculate the percent luminous transmittance (t), as follows: Average the value of the three separate measurements obtained with the glazing material in place. Average the value of three separate measurements obtained without the glazing material in place. Divide the average value of measurements obtained with the glazing material in place (Fr) by the average value of measurements obtained without the glazing in place (Fo). Multiply the ratio by 100.

$$t = \frac{Fr}{Fo} \times 100$$

S5.1.1.8.2 Test conditions. The glazing material shall meet the requirements of S5.1.1.8 under the following conditions:

S5.1.1.8.2.1 The glazing materials are three 12x12 inch (305x305mm) or three 3x12 inch (76mmx305mm) substantially flat specimens that have been irradiated following the procedure for Test No. 1 of ANSI Z26.1.

S5.1.1.8.2.2 The light source for luminous transmittance testing has a color temperature of 2856 degrees Kelvin ±50 degrees K (CIE Illuminant A).

S5.1.1.8.2.3 The photoreceptor used in luminous transmittance testing shall have the characteristics described in paragraphs (a) and (b) of this section.

(a) The photoreceptor has a relative spectral sensitivity consistent with the spectral efficiency of the CIE 1931 standard observer for photopic vision as specified in the Illumination Engineering Systems Handbook published by the Illuminating Engineering Society, 345 East 47th Street, New York, New York 10017. A diffusing screen is placed immediately in front of the detector if needed to improve the uniformity of illumination over the sensitive surface.

(b) The photoreceptor response as read on the indicating device is a linear function of the incident light intensity within ±2 percent accuracy of the full scale (100 percent transmittance) or 10 percent of the reading, whichever is smaller.

S5.1.1.8.2.4 During all measurements, including calibration, the optical axis of the photoreceptor is horizontal and coincident with the optical axis of the measuring beam.

S5.1.1.8.2.5 The optical system of the light source is corrected for chromatic aberrations and is capable of producing a light beam collimated within two degrees. The optical system of the photoreceptor is designed to minimize polarization effects.

S5.1.1.8.2.6 Luminous transmittance tests are conducted in a facility in which all light, other than the measuring beam, from primary and reflected sources is eliminated. Stray light from within the measuring apparatus may not exceed 1 percent.

6. In § 571.205, S5.1.2 through S5.1.2.10 would be revised and a new S5.1.2.11 through S5.1.2.19 would be added to read as follows:

S5.1.2 The following glazing materials specified in ANS Z26 may be used in the locations of motor vehicles as specified in ANS Z26: Item 4, Item 5, Item 6, Item 7, Item 8, Item 9, Item 10, Item 11A, and Item 11B. In addition, materials complying with S5.1.2.1 through S5.1.2.17 may be used in the locations of motor vehicles specified in those sections.

S5.1.2.1 Item 1—Safety Glazing Material for Use Anywhere in a Truck, Bus, or Multipurpose Passenger Vehicle With a GVWR of More than 10,000 Pounds. Safety glazing material specified in paragraph (a), (b) or (c) of this section is Item 1 glazing and may be used anywhere in a motor vehicle with a GVWR of more than 10,000 pounds—

(a) Safety glazing material that complies with Tests Nos. 1, 2, 3, 4, 9, 12, 15, 18, and 26 of ANS Z26.

(b) A multiple glazed unit, Class 1, whose individual component units each comply with the tests listed in paragraph (a) of this section and which, as a whole unit, complies with Tests Nos. 1, 2, and 15 of ANS Z26.

(c) A multiple glazed unit, Class 2, which, as a whole unit, complies with Tests Nos. 1, 2, 3, 5, 9, 12, 14, 15, 18, and 26 of ANS Z26.

S5.1.2.2 Item 1A—Safety Glazing Material for Use Anywhere in a Passenger Car, or Truck, Bus and Multipurpose Passenger Vehicle with a GVWR of 10,000 Pounds or Less. Safety glazing material specified in paragraph (a), (b) or (c) of this section is Item 1A glazing and may be used anywhere in a passenger car, or truck, bus, and

multipurpose passenger vehicle with a GVWR of 10,000 pounds or less.

(a) Safety glazing material that complies with S5.1.1.8 and Tests Nos. 1, 3, 4, 9, 12, 15, 18, and 26 of ANS Z26.

(b) A multiple glazed unit, Class 1, whose individual component units each comply with paragraph (a) of this section and which, as a whole unit, complies with S5.1.1.8 and Tests Nos. 1 and 15 of ANS Z26.

(c) A multiple glazed unit, Class 2, which, as a whole unit, complies with S5.1.1.8 and Tests Nos. 1, 3, 5, 9, 12, 14, 15, 18, and 26 of ANS Z26.

S5.1.2.3 Item 2—Safety Glazing Material for Use Anywhere in a Truck, Bus or Multipurpose Passenger Vehicle With a GVWR of More than 10,000 Pounds Except Windshields. Safety glazing material specified in paragraph (a), (b), (c), or (d) of this paragraph may be used anywhere in a motor vehicle with a GVWR of 10,000 pounds except windshields.

(a) Safety glazing material that complies with Tests Nos. 1, 2, 3, 4, 9, 12, and 18 of ANS Z26.

(b) Safety glazing material that complies with S5.1.1.8 and Tests Nos. 1, 6, 7, 8, and 18 of ANS Z26.

(c) A multiple glazed unit, Class 1, whose individual component units comply with the tests specified in paragraph (a) or (b) of this section, and which, as a whole unit, complies with Tests Nos. 1 and 2 of ANS Z26.

(d) A multiple glazed unit, Class 2, that complies with Tests Nos. 1, 2, 3, 5, 9, 12, 14, and 18 of ANS Z26 or Tests Nos. 1, 2, 3, 5, 6, 7, 8, 14, and 18 of ANS Z26.

S5.1.2.4 Item 2A—Safety Glazing Material for Use Anywhere in a Passenger Car, or Truck, Bus and Multipurpose Passenger Vehicle with a GVWR of 10,000 Pounds or Less Except Windshields. Safety glazing material specified in paragraph (a), (b), (c), or (d) of this section, may be used anywhere in a passenger car, or truck, bus, and multipurpose passenger vehicle with a GVWR of 10,000 pounds or less, except windshields.

(a) Safety glazing material that complies with S5.1.1.8 and Tests Nos. 1, 3, 4, 9, 12, and 18 of ANS Z26.

(b) Safety glazing material that complies with S5.1.1.8 and Tests Nos. 1, 6, 7, 8, and 18 of ANS Z26.

(c) A multiple glazed unit, Class 1, whose individual component units comply with the tests specified in paragraph (a) or (b) of this section, and which, as a whole unit, complies with S5.1.1.8 Test No. 1 of ANS Z26.

(d) A multiple glazed unit, Class 2, that complies with S5.1.1.8 and Tests Nos. 1, 3, 5, 9, 12, 14, and 18 of ANS Z26 or S5.1.1.8 and Tests Nos. 1, 3, 5, 6, 7, 8, 14, and 18 of ANS Z26.

S5.1.2.5 Item 3—Safety Glazing Material for Use Anywhere in Motor Vehicles Except Windshields and Certain Specified Locations.

S5.1.2.5.1 Safety glazing material specified in paragraph (a), (b), (c) or (d) of this section is Item 3 glazing and may be used anywhere in a motor vehicle, except as specified in S5.1.2.5.2—

(a) Safety glazing material that complies with Tests Nos. 1, 3, 4, 9, 12, and 18 of ANS Z26.

(b) Safety glazing material that complies with Tests Nos. 1, 6, 7, 8, and 18 of ANS Z26.

(c) A multiple glazed unit, Class 1, whose individual component units each comply with the tests specified in paragraph (a) or (b) of this section, and which, as a whole unit, complies with Test No. 1 of ANS Z26.

(d) A multiple glazed unit, Class 2, which, as a whole unit, complies with Tests Nos. 1, 3, 5, 9, 12, 14, and 18 of ANS Z26 or Tests Nos. 1, 3, 5, 6, 7, 8, 14, and 18 of ANS Z26.

S5.1.2.5.2 Item 3 glazing may not be used in windshields and in the following locations requisite for driving visibility:

(a) For buses and trucks with a GVWR of more than 10,000 pounds, glazing of windows to the immediate right and left of the driver and in the rearmost window if the latter is used for driving visibility.

(b) For passenger cars, and buses and trucks with a GVWR of 10,000 pounds or less, glazing of all windows, including the rear window, all interior partitions, and all apertures created for window purposes.

S5.1.2.6 Item 11C—Safety Glazing Material for Use in Bullet Resistant Shields in a Truck, Bus, or Multipurpose Passenger Vehicle With a GVWR of More than 10,000 Pounds. Bullet resistant glazing that complies with S5.1.2.18, and Test Nos. 2, 17, 19, 20, 21, 24, 27, 28, 29, 30, and 32 of ANS Z26 is Item 11C glazing and may be used only in bullet resistant shields that can be removed from the vehicle easily for cleaning and maintenance in a motor vehicle with a GVWR of more than 10,000 pounds. A bullet resistant shield may be used in areas requisite for driving visibility only if the combined parallel luminous transmittance with perpendicular incidence through both the shield and the permanent vehicle glazing is at least 0.85 times the transmittance of the permanent vehicle glazing.

S5.1.2.7 Item 11D—Safety Glazing Material for Use in Bullet Resistant Shields in Passenger Car, or Truck, Bus and Multipurpose Passenger Vehicle with a GVWR of 10,000 Pounds or Less. Bullet resistant glazing that complies with S5.1.1.8, S5.1.2.19, and Test Nos. 17, 19, 20, 21, 24, 27, 28, 29, 30, and 32 of ANS Z26 is Item 11D glazing and may be used only in bullet resistant shields that can be removed from the motor vehicle easily for cleaning and maintenance in a passenger car, or truck, bus, and multipurpose passenger vehicle with a GVWR of 10,000 pounds or less. A bullet resistant shield may be used in areas requisite for driving visibility only if the combined parallel luminous transmittance with perpendicular incidence through both the shield and the permanent vehicle glazing is at least 0.85 times the transmittance required of the permanent vehicle glazing.

S5.1.2.8 Item 12—Rapid Plastics. Safety plastic materials that comply with Test Nos. 10, 13, 16, 19, 20, 21, and 24 of ANS Z26, with the exception of the test for resistance to undiluted denatured alcohol Formula SD No. 30, and that comply with the labeling requirements of S5.1.2.19, are Item 12 glazing and may be used in a motor vehicle only in the following specified locations at levels not requisite for driving visibility.

(a) Windows and doors in slide-in campers and pick-up covers.

(b) Motorcycle windscreens below the intersection of a horizontal plane 15 inches vertically above the lowest seating position.

(c) Standee windows in buses.

(d) Interior partitions.

(e) Openings in the roof.

(f) Flexible curtains or readily removable windows or in ventilators used in conjunction with readily removable windows.

(g) Windows and doors in motor homes and buses, except for the windshield and windows to the immediate right or left of the driver.

S5.1.2.9 Item 13—Flexible plastics. Safety plastic materials that comply with Tests Nos. 16, 19, 20, 22, and 23 or 24 of ANS 26, with the exception of the test for resistance to undiluted denatured alcohol Formula SD No. 30, and that comply with the labeling requirements of S5.1.2.19 are Item 13 glazing and may be used in the following specific locations at levels not requisite for driving visibility.

(a) Windows except forward-facing windows, and doors in slide-in campers and pick-up covers.

(b) Motorcycle windscreens below the intersection of a horizontal plane 15 inches vertically above the lowest seating position.

(c) Standee windows in buses.

(d) Interior partitions.

(e) Openings in the roof.

(f) Flexible curtains or readily removable windows or in ventilators used in conjunction with readily removable windows.

(g) Windows and doors in motor homes, except for the windshield, forward-facing windows, and windows to the immediate right or left of the driver.

S5.1.2.10 Item 14—Glass-Plastics for Use in a Truck, Bus, or Multipurpose Passenger Vehicle With a GVWR of More than 10,000 Pounds. Glass-plastic glazing materials that comply with the labeling requirements of S5.1.2.19 and Tests Nos. 1, 2, 3, 4, 9, 12, 15, 16, 17, 18, 19, 24, 26, and 28 of ANS Z26, as those tests are modified in S5.1.2.18, Requirements and Test Procedures for Glass Plastics, are Item 14 glazing and may be used anywhere in a motor vehicle with a GVWR of more than 10,000 pounds, except that it may not be used in vehicles that have no roof, or in vehicles whose roofs are completely removable.

S5.1.2.11 Item 14A—Glass-Plastics for Use in Passenger Cars, or Trucks, Buses and Multipurpose Passenger Vehicles with a GVWR of 10,000 Pounds or Less. Glass-plastic glazing materials that comply with S5.1.1.8, the labeling requirements of S5.1.2.19, and Tests Nos. 1, 3, 4, 9, 12, 15, 16, 17, 18, 19, 24, 26, and 28 of ANS Z26, as those tests are modified in S5.1.2.18, Requirements and Test Procedures for Glass Plastics, are Item 14A glazing and may be used anywhere in a passenger car, or truck, bus and multipurpose passenger vehicle with a GVWR of 10,000 pounds or less subject to the requirements of S5.1.1.8, except that it may not be used in convertibles, in vehicles that have no roof, or in vehicles whose roofs are completely removable.

S5.1.2.12 Item 15—Annealed Glass-Plastic for Use in all Positions in Trucks, Buses or Multipurpose Passenger Vehicles With a GVWR of More Than 10,000 Pounds Except the Windshield. Glass-plastic glazing materials that comply with Tests Nos. 1, 2, 3, 4, 9, 12,16, 17, 18, 19, 24, and 28 of ANS Z26, as those tests are modified in S5.1.2.18 Requirements and Test Procedures for Glass-Plastics, are Item 15 glazing and may be used anywhere in motor vehicles with a GVWR of more than 10,000 pounds except the windshield. However, these materials may not be used in vehicles that have no roof, or in vehicles with roofs that are completely removable.

S5.1.2.13 Item 15A—Annealed Glass-Plastic for Use in all Positions in a Passenger Car, or Truck, Bus and Multipurpose Passenger Vehicle With a GVWR of 10,000 Pounds or Less Except the Windshield. Glass-plastic glazing materials that comply with S5.1.1.8 and Test Nos. 1, 3, 4, 9, 12, 16, 17, 18, 19, 24, and 28 of ANS Z26, as those tests are modified in S5.1.2.18 Requirements and Test Procedures for Glass-Plastics, are Item 15A glazing and may be used anywhere in passenger cars, or trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less except the windshield. However, these materials may not be used in convertibles, in vehicles that have no roof, or in vehicles with roofs that are completely removable.

S5.1.2.14 Item 15B—Tempered Glass-Plastic for Use in all Positions in a Truck, Bus or Multipurpose Passenger Vehicle With a GVWR of More Than 10,000 Pounds Except the Windshield. Glass-plastic glazing materials that comply with Tests Nos. 1, 2, 3, 4, 6, 7, 8, 16, 17, 18, 19, 24, and 28 of ANS Z26, as those tests are modified in S5.1.2.18, Requirements and Test Procedures for Glass-Plastics, are Item 15B glazing and may be used anywhere in a motor vehicle with a GVWR of more than 10,000 pounds except the windshield. In addition, these materials may not be used in convertibles, in vehicles that have no roof or in vehicles with roofs that are completely removable.

S5.1.2.15 Item 15C—Tempered Glass-Plastic for Use in all Positions in a Passenger Car, or Truck, Bus and Multipurpose Passenger Vehicle With a GVWR of 10,000 Pounds or Less Except the Windshield. Glass-plastic glazing materials that comply with S5.1.1.8 and with Tests Nos. 1, 3, 4, 6, 7, 8, 16, 17, 18, 19, 24, and 28 of ANS Z26, as those tests are modified in S5.1.2.18, Requirements and Test Procedures for Glass-Plastics, are Item 15C glazing and may be used anywhere in a passenger car, or truck, bus and multipurpose passenger vehicle with a GVWR of 10,000 pounds or less except the windshield. In addition, these materials may not be used in vehicles that have no roof or in vehicles with roofs that are completely removable.

S5.1.2.16 Item 16A—Annealed Glass-Plastic for Use in all Positions in a Vehicle Not Requisite for Driving Visibility. Glass-plastic glazing materials that comply with Test Nos. 3, 4, 9, 12, 16, 19, 24, and 28 of ANS Z26, as those tests are modified in S5.1.2.18 Requirements and Test Procedures for Glass-Plastics, are Item 16A glazing and may be used in a motor vehicle in all locations not requisite for driving visibility.

S5.1.2.17 Item 16B—Tempered Glass-Plastic for Use in all Positions in a Vehicle Not Requisite for Driving Visibility. Glass-plastic glazing materials that comply with Test Nos. 3, 4, 6, 7, 8, 16, 19, 24, and 28 of ANS Z26, as those tests are modified in S5.1.2.18 Requirements and Test Procedures for Glass-Plastics, are Item 16B glazing and may be used in a motor vehicle in all locations not requisite for driving visibility.

S5.1.2.18 Requirements and Test Procedures for Glass-Plastics.

(a) Tests Nos. 6, 7, 8, 9, 12, 16, and 18 of ANS Z26 shall be conducted on the glass side of the specimen, i.e., the surface which would face the exterior of the vehicle. Test Nos. 17, 19, 24, and 26 of ANS Z26 shall be conducted on the plastic side of the specimen, i.e., the surface which would face the interior of the vehicle. Test No. 15 of ANS Z26 shall be conducted with the glass side of the glazing facing the illuminated box and the screen, respectively. For Test No. 19 of ANS Z26, add the following to the specified list: An aqueous solution of isopropanol and glycol ether solvents in concentration no greater than 10% or less than 5% by weight and ammonium hydroxide no greater than 5% or less than 1% by weight, simulating typical commercial windshield cleaner.

(b) Glass-plastic specimens shall be exposed to an ambient air temperature of −40 °C (±5 °C), which is equivalent to −40 °F (±9 °F), for a period of 6 hours at the commencement of Test No. 28 of ANS Z26, rather than at the initial temperature specified in that test. After testing, the glass-plastic specimens shall show no evidence of cracking, clouding, delaminating, or other evidence of deterioration.

(c) Glass-plastic specimens tested in accordance with Test No. 17 of ANS Z26 shall be carefully rinsed with distilled water following the abrasions procedure and wiped dry with lens paper. After this procedure, the arithmetic means of the percentage of light scattered by the three specimens as a result of abrasion shall not exceed 4.0 percent.

S5.1.2.19 Labeling about Cleaning Instructions.

(a) Each manufacturer of glazing materials designed to meet the requirements of S5.1.2.6, S5.1.2.7, S5.1.2.8, S5.1.2.9, S5.1.2.10, S5.1.2.11, S5.1.2.12, S5.1.2.13, S5.1.2.14, S5.1.2.15, S5.1.2.16, and S5.1.2.17, shall affix a label, removable by hand without tools, to each item of such glazing material. The label shall identify the product involved, specify instructions and agents for cleaning the material that will minimize the loss of transparency, and instructions for removing frost and ice, and, at the option of the manufacturer, refer owners to the vehicles's Owner's

Manual for more specific cleaning and other instructions.

(b) Each manufacturer of glazing materials designed to meet the requirements of paragraph S5.1.2.18 may permanently and indelibly mark the lower center of each item of such glazing material, in letters not less than 3/16 inch nor more than 1/4 high, the following words: Glass Plastic Material—See Owner's Manual for Care Instructions.

7. In § 571.205, S6.1 would be revised and S6.1.1 through S6.1.2.3 would be added to read as follows:

S6.1 Each prime glazing material manufacturer shall legibly and permanently mark in letters and numerals at least 0.070 inch (1.78 mm) in height, glazing materials manufactured by him with the information specified in S6.1.1 and in the locations specified in S6.1.2.

S6.1 Glazing material shall be marked with the information set forth in S6.1.1.1 through S6.1.1.5. Any section of safety glazing material cut from a piece of safety glazing material marked by the manufacturer in accordance with this section shall be marked with the same words, designation, characters, and numerals as the piece from which it was cut.

S6.1.1.1 The manufacturer's distinctive designation or trademark.

S6.1.1.2 The words "American National Standard" or the characters "AS."

S6.1.1.3 The "Item number" as specified in S5.1.2.1 through S5.1.2.17.

S6.1.1.4 A model number that identifies the type of construction of the glazing material.

S6.1.1.5 In addition to the other required markings, following the letters AS and the Item number, bullet-resisting glazing shall be marked with one of the following Type designations: Type MP, Type HP, Type SP, and Type RR.

S6.1.2 The information set forth in S6.1.1.1 through S6.1.1.5 shall be located as follows—

S6.1.2.1 The Item number in S6.1.1.3 shall be immediately adjacent to "American National Standard" or "AS".

S6.1.2.2 The characters, or the words for which they stand, and the numerals as prescribed in S6.1.1.2, S6.1.1.3, and S6.1.1.4 shall be in close proximity to, but outside of and separate from, the manufacturer's distinctive designation or trademark.

S6.1.2.3 If the manufacturer's code or date markings are used outside the trademark, they shall be separated from any other letters or characters by a space or hyphen to avoid confusion.

8. In § 571.205, S6.2 would be revised to read as follows:

S6.2 Each prime glazing material manufacturer shall certify each piece of glazing material that is designed as a component of any specific model of motor vehicle or camper, by adding to the mark required by section S6.1, in letters and numerals of the size specified in section S6.1:

(a) The symbol "DOT;"

(b) A manufacturer's code mark, which will be assigned by NHTSA on the written request of the manufacturer; and

(c) A number which represents the maximum installation angle at which the manufacturer is certifying that the glazing will meet the luminous transmittance requirements of S5.1.1.8 of this standard when tested in accordance with the test procedures of S5.1.1.8.1 and the test conditions of S5.1.1.8.2 of this standard.

9. In § 571.205, S6.4 would be revised to read as follows:

S6.4 Each manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, shall mark that material in accordance with section S6.1.

Issued on January 10, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-1465 Filed 1-21-92; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte No. MC-203]

Petition to Amend 49 CFR Part 1057 Lease and Interchange of Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend its written lease requirements at 49 CFR 1057.12(c). The purpose of the proposed amendment is to give notice to the courts and the States workers' compensation and other administrative tribunals that it is not the intention of the Commission's regulations to define or affect the agency relationship between a motor carrier lessee and an independent owner-operator lessor by requiring that a lease provide for the lessee's "exclusive possession, control, and use" of the equipment provided by the lessor. Any interested person may file a comment in this proceeding.

DATES: Comments are due on or before February 21, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. MC-203 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Hartley, (202) 927-5319 or Richard Felder, (202) 927-5313. [TTD for hearing impaired: (202) 927-5721]

SUPPLEMENTARY INFORMATION: At the request of the Interstate Truckload Carriers Conference and the American Trucking Associations, Inc., the Commission is instituting a proposed rulemaking proceeding to consider amending the regulations dealing with written lease requirements at 49 CFR 1057.12(c), *Exclusive possession and responsibilities*, by inserting a new paragraph (4) as set forth below.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927-7428. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Initial Regulatory Flexibility Analysis

The Commission preliminarily concludes that these rules will not have a significant economic impact upon a substantial number of small entities.

List of Subjects in 49 CFR Part 1057

Motor carriers, Reporting and recordkeeping requirements.

Decided: January 13, 1992.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1057 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

1. The authority citation for part 1057 continues to read as follows:

Authority: 49 U.S.C. 11107 and 10321; 5 U.S.C. 553.

2. In § 1057.12 a new paragraph (c)(4) is proposed to be added to read as follows:

§ 1057.12 Written lease requirements.

* * * * *

(c) * * *

(4) Nothing in the provisions required by paragraph (c)(1) of this section is intended to affect the agency relationship between the lessor or driver provided by the lessor and the authorized carrier lessee. An independent contractor or employment relationship may exist when a carrier lessee complies with 49 U.S.C. 11107 and attendant administrative requirements.

* * * * *

[FR Doc. 92-1507 Filed 1-21-92; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 57, No. 14
Wednesday, January 22, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV-91-751]

Announcement of Public Meetings To Receive Information on the Effect of Grade Standards for Fruits and Vegetables on Pesticide Use

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given that two public meetings will be held to provide information to the U.S. Department of Agriculture (Department) on whether grade standards or related Department regulations governing the appearance of fresh fruits and vegetables affect pesticide use. Interested parties are invited to submit written comments to the Department and/or present oral comments at the meetings with respect to completed and ongoing research on this subject, as well as views on the need for additional research.

DATES: One public meeting will begin at 8:30 a.m., E.S.T. on March 12, 1992, and continue if necessary on March 13, 1992, in the Key Biscayne Room, Miami Airport Hilton and Marina, 5101 Blue Lagoon Drive, Miami, Florida 33126; telephone (305) 262-1000. A second public meeting will begin at 8:30 a.m., P.S.T. on March 19, 1992, and continue if necessary on March 20, 1992, in the Windsor Room, Grosvenor Hotel, 380 S. Airport Boulevard, San Francisco, California 94080; telephone (415) 873-3200.

Written comments must be received by April 3, 1992.

ADDRESSES: Written comments should be sent to: Fruit and Vegetable Division, room 2077-S, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456, Attention: Sharon E. Bomer. Two copies of all material should be submitted. Written comments received will be available for public inspection at room 2077-South Building, Fruit and Vegetable Division, AMS, USDA, 14th and Independence Avenue SW, Washington, DC, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Sharon E. Bomer, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2077-S, Washington, DC 20090-6456; telephone: (202) 720-2945, or Marlene Betts, Fresh Products Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2064-S, Washington, DC 20090-6456: telephone: (202) 720-2188.

SUPPLEMENTARY INFORMATION: Section 1352 of the Food Agriculture, Conservation, and Trade Act of 1990, Public Law 101-624, (7 U.S.C. 1622 note), hereinafter referred to as FACTA, requires the Secretary of Agriculture to conduct research to examine the effects of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) and other statutes governing cosmetic appearance, on pesticide use in the production of perishable commodities. The Conference Report accompanying the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 1992 (Pub. L. 101-142) states that the Agricultural Marketing Service is expected to report by March 1992 on the need for additional research on whether grade standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. As part of the report, AMS is expected to identify existing research that is completed or ongoing in this regard.

For the purposes of this activity, "perishable commodity" shall be defined as fresh fruits and vegetables. The definition of "cosmetic appearance" shall be as defined in section 1351 of the FACTA as meaning "the exterior appearance of an agricultural commodity including changes to that appearance resulting from superficial damage or other alteration that do no significantly affect yield, taste, or nutritional value."

In order to complete this report, the Department is conducting a literature review of completed and ongoing research. The Department will also conduct two public meetings. The purpose of the meetings is for the Department to obtain information on completed and ongoing research as well as views on what research is needed on this subject.

The Department specifically seeks information on:

(1) Studies of the effect that Federal grade standards (or other related Department regulations affecting appearance) have on pesticide use in fruit and vegetable production;

(2) Studies on the purpose and use of specific pesticides used in fruit and vegetable production by commodity;

(3) Studies on the effect, if any, of reducing the emphasis on appearance in grade standards and other regulations on crop yield, pesticide use, the adoption of agriculture practices that result in reduced pesticide use, water quality, and production and marketing costs;

(4) Marketing studies on where, how and to what extent USDA, State and private grade standards are used;

(5) Consumer studies identifying acceptable levels of quality for fruits and vegetables; and

(6) Studies of the impact on the produce industry's international competitiveness should appearance factors in Federal grade standards or related Department regulations be changed. The Department also seeks views on what additional research is needed on this subject.

An official of the Department will preside over the meetings. Those wishing to make oral comments must register by 2 p.m. of the first day of each meeting in each location. A time limitation of ten minutes for each commenter will be imposed. Questions from the audience will not be permitted, although the presiding official may ask questions for purposes of clarification.

A written transcript of the meeting will be taken. Copies may be obtained by contacting the reporting service at the meeting.

Written comments will be accepted through April 3, 1992. Comments received will be available for public inspection in the Fruit and Vegetable Division (address above) during regular business hours.

(**Authority:** Sections 1351-1354; 104 Stat. 3566-7)

Dated: January 16, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92–1512 Filed 1–21–92; 8:45 am]

BILLING CODE 3410–02–M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will be convened at 9:30 a.m. on Monday, February 10, 1992, in Memorial Lounge of the Waterman Building, 85 South Prospect Street, at the University of Vermont in Burlington, Vermont, and adjourn at 4 p.m.

The purpose is to hold an informal fact-finding meeting to review the topic, "Sources of Bias-Related Tensions on College Campuses and Approaches to Reducing Racial/Religious Bigotry Affecting Campuses." The main speakers are expected to represent the administrations, student bodies, faculties, and campus security forces of the University of Vermont and Middlebury College. Other speakers will include law enforcement officials and other experts.

Persons desiring additional information, or planning a presentation to the Advisory Committee, should contact Chairperson Samuel B. Hand (802/656–3180, 656–4489) or Eastern Regional Division Director John I. Binkley (202/523–5264; TDD 202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC, January 9, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–1451 Filed 1–21–92; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Humanitarian License.

Form Number: Agency—EAR section 773.5; OMB Control No. 0694–0033.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: Four respondents; 32 reporting/recordkeeping hours. Average hours per respondent 1½ hour.

Needs and Uses: The information required under this regulation is necessary to monitor the shipment and distribution of donations to meet basic human needs to embargoed destinations. Basic human needs are those requirements essential to individual well-being: health, food, clothing, shelter, and education. The respondents are comprised of private and voluntary charitable organizations.

Affected Public: Non-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: January 14, 1992.

Edward Michals,

Departmental Clearance Officer Office of Management and Organization.

[FR Doc. 92–1480 Filed 1–21–92; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Notification of Commercial Invoices That Do Not Contain a Destination Control Statement.

Form Number: Agency—EAR section 786.6.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 20 respondents; 11 reporting/recordkeeping hours. Average time per respondent is 30 minutes for reporting and 1 minute for recordkeeping.

Needs and Uses: This collection is the written request and/or written assurance that a destination control statement is entered on a commercial invoice covering U.S. exports. The U.S. exporter is responsible for this requirement that ensures that U.S. exports go only to legally authorized destinations.

Affected Public: Businesses or other for-profit institutions; small business or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearnace Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: January 14, 1992.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 92–1481 Filed 1–21–92; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Report on Unscheduled Unloading.

Form Number: Agency—EAR section 786.5(b); OMB Control No. 0694–0040.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1 respondent; 1 reporting hour. Average time per respondent is 1 hour.

Needs and Uses: This collection is the report required by the carrier exporting

controlled goods or technology when it is necessary to unload the cargo at a destination other than that shown on the Shipper's Export Declaration.

Affected Public: Businesses or other for-profit institutions; small business or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC. 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: January 4, 1992.

Edward Michals,

Departmental Clearance Officer Office of Management and Organization.

[FR Doc. 92–1482 Filed 1–21–92; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Application for Transfer of Licenses to Another Party.

Form Number: Agency—EAR section 772.13; OMB—Control No. 0694–0051.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 20 respondents; 18 reporting/recordkeeping hours. Average time per respondent is 30 minutes for reporting and 1 minute for recordkeeping.

Needs and Uses: This collection of information is necessary to approve the transfer of outstanding validated export licenses from the original licensee to another party.

Affected Public: Business or other for-profit institutions; small business or organizations.

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: January 14, 1992

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 92–1483 Filed 1–21–92; 8:45 am]

BILLING CODE 92–1483–M

Bureau of Export Administration

Sensors Technical Advisory Committee; Partially Closed Meeting

A meeting of the Sensor Technical Advisory Committee will be held February 11, 1992, 9 a.m., in the Herbert C. Hoover Building, room 1617F, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of COCOM Core List 6 (Sensors) export controls.
4. Discussion of nuclear nonproliferation and missile tech controls relating to Core List 6.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, TAC Staff/BXA/rm. 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees therefore, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a) (3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377-2583.

Dated: January 16, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92-1543 Filed 1-21-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[C–535–001]

Cotton Shop Towels from Pakistan; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cotton shop towels from Pakistan for the period January 1, 1990 through December 31, 1990. We preliminarily determine the total bounty or grant to be 12.74 percent *ad valorem* for Eastern Textiles Ltd., 12.93 percent *ad valorem* for Hilal Corporation Ltd., 11.78 percent *ad valorem* for Mohsin Brothers and 6.88 percent *ad valorem* for all other companies. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 9936) of the countervailing duty order on cotton shop towels from Pakistan (49 FR 8974; March 9, 1984). On March 12, 1991, Milliken & Company, the petitioner, requested an administrative review of the order. We published the initiation on April 18, 1991 (56 FR 15856). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). The Department published the final results of the last administrative review on June 24, 1991 (56 FR 28740).

Scope of Review

Imports covered by this review are shipments of Pakistani cotton shop towels. During the review period, such merchandise was classifiable under item number 6307.10.20 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990, sixteen companies and five programs.

Calculation Methodology for Assessment and Cash Deposit Purposes

In calculating the benefits received during the review period, we followed the methodology described in 19 CFR 355.22(d). First we calculated a country-wide rate, weight-averaging the benefits received by the sixteen companies subject to review to determine the overall subsidy from all countervailable programs benefitting exports of the subject merchandise to the United States. Our analysis next requires that we examine the aggregate *ad valorem* rate calculated for each company combining all countervailable programs, in order to determine whether individual company rates differed significantly from the weighted-average country-wide rate. Based on these calculations, we preliminarily determine that three companies received aggregate benefits which were five percentage points greater than the weighted-average country-wide rate (significantly different within the meaning of 19 CFR 355.22(d)(3)(i)). These three companies must be treated separately for assessment and cash deposit purposes.

The remaining thirteen companies received aggregate benefits from all countervailable programs combined which were not significantly different from the weighted-average country-wide rate; their rates were used in the calculation to establish the "all other" rate for the review period.

Analysis of Programs

(1) Export Financing

The Export Finance Scheme (EFS), which is administered by the State Bank of Pakistan, grants short-term loans at below-market interest rates to exporters. The EFS has two parts. Under Part I, exporters may obtain financing on specific letters of credit or irrevocable contracts. Under Part II, exporters may establish a credit line amounting to 33 percent of the value of the previous year's exports. During the current year, a company must export merchandise for a total value equivalent to three times the amount of financing obtained under Part II. The exports used to obtain financing under Part I may not be used to satisfy the export performance requirement under Part II. If exports fall short of the Part II requirement, there is an interest penalty of 20 percent.

During the review period, shop towel exporters made interest payments on loans obtained under Parts I and II of the EFS. The loans had an interest rate of 6 or 7 percent, and the term of the loans varied from three to twelve months. We used as our commercial benchmark the comparable commercial rate of 16 percent which was reported by certain companies in the questionnaire response. Because this program provides loans only to exporters at less than commercial rates, we preliminarily determine that it is countervailable.

To calculate the benefit, we took the difference between the actual interest paid and the interest that would have been paid if the loans had been obtained at commercial rates. Since EFS loans can be tied to exports to specific countries, we divided each firm's interest benefit on loans obtained for exports to the United States by the value of its exports to the United States. We then weight-averaged the result by each firm's share of total exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program during the review period to be 7.80 percent *ad valorem* for Eastern Textiles Ltd., 3.83 percent *ad valorem* for Hilal Corp., 2.68 percent *ad valorem* for Mohsin Brothers and 1.78 percent *ad valorem* for all other companies.

(2) Excise Tax, Sales Tax, and Customs Duty Rebate Programs

The Central Bureau of Revenue administers the rebate of excise taxes, customs duties and sales taxes on both domestic and imported inputs used in exported products. During the review period, the excise tax rebate was 3.80 percent, the sales tax rebate was 0.11 percent, and the customs duty rebate was 0.37 percent. All the rebates were calculated on the basis of the f.o.b. value of exports.

The Government of Pakistan failed to provide any documentation linking the amount of these rebates to actual indirect taxes included in the cost of production for shop towels. Therefore, we preliminarily determine that the Government of Pakistan pays these rebates without regard to specific duties and taxes incurred in the production of shop towels and that the full amount of the rebates is countervailable because the rebates are contingent upon export performance.

These cash rebates are earned on a sale-by-sale basis, and a firm can precisely calculate the amount of rebate it will receive for each export sale at the moment the sale is made. Because the amount of these rebates is known at the time of export, we calculate the benefit from these programs on a credit-as-earned basis. Using the rates applicable to cotton shop towel exports during the review period, we preliminarily determine the benefit from these programs to be 4.28 percent *ad valorem* for all companies during the review period.

(3) Income Tax Reductions

The Government of Pakistan provides firms with a maximum 50-percent reduction of taxes on income generated from exports. The percenage of the reduction depends on the size of the company and the form of business ownership. Because this program is contingent upon export performance, we preliminarily determine that it is countervailable.

Seven companies responded that they used this program during the review period. Six companies responded that they did not use this program and three companies did not provide a response. For the three companies that did not respond to the questionnaire, we assumed that they received benefits from this program and used as the best information available ("BIA") the

highest rate calculated (4.82 percent) for any company that used this program and provided complete information in the questionnaire response. Of these three BIA companies, two received separate rates for this program because their aggregate benefits were significantly different from the weighted-average country-wide rate. On this basis, we preliminarily determine the benefit during the review period to be 0.66 percent *ad valorem* for Eastern Textiles Ltd., 4.82 percent *ad valorem* for Hilal Corp., 4.82 percent *ad valorem* for Mohsin Brothers and 0.82 percent *ad valorem* for all other companies.

(4) Other Programs

We examined the following programs and preliminarily determine that exporters of cotton shop towels did not use them during the review period:

a. Import Duty Rebates; and
b. Export Credit Insurance.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant during the period January 1, 1990 through December 31, 1990 to be 12.74 percent *ad valorem* for Eastern Textiles Ltd., 12.93 percent *ad valorem* for Hilal Corporation Ltd., 11.78 percent *ad valorem* for Mohsin Brothers and 6.88 percent *ad valorem* for all other companies.

The Department intends to instruct the Customs Service to assess countervailing duties of 12.74 percent of the f.o.b. invoice price on shipments from Eastern Textiles Ltd., 12.93 percent of the f.o.b. invoice price on shipments from Hilal Corporation Ltd., 11.78 percent on shipments from Mohsin Brothers and 6.88 percent of the f.o.b. invoice price on shipments of this merchandise from all other companies exported on or after January 1, 1990 and on or before December 31, 1990.

Further, the Department intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of the f.o.b. invoice price on all merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review at the rate of 12.74 percent for Eastern Textiles Ltd., 12.93 percent for Hilal Corporation Ltd., 11.78 percent for Mohsin Brothers and 6.88 percent for all other companies.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under § 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 13, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-1545 Filed 1-21-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 92-00001." A summary of the application follows.

Summary of the Application

Applicant: Aerospace Industries Association of America, Inc. ("AIA") 1250 Eye Street, NW., Washington, DC 20005; Contact: Mac S. Dunaway, Esquire; Telephone: (202) 862-9700.

Application No.: 92-00001.

Date Deemed Submitted: January 14, 1992.

Members (in addition to applicant): Aerojet, a Segment of GenCorp, Rancho Cordova, CA (Controlling Entity: GenCorp, Fairlawn, OR); Allied-Signal Aerospace Company, Torrance, CA (Controlling Entity: Allied Signal Inc., Morristown, NJ); Aluminum Company of America, Cleveland, OH; American Pacific Corporation, Las Vegas, NV; Argo-Tech Corporation, Cleveland, OH; BASF Structural Materials, Charlotte, NC (Controlling Entity: BASF Corporation, Parsippany, NJ); Bechtel National, Inc., San Francisco, CA (Controlling Entity: Bechtel Group, Inc., San Francisco, CA); Best Foam Fabricators, Inc., Chicago, IL; B.H. Aircraft Company, Inc., Farmingdale, NY; The Boeing Company, Seattle WA; Chrysler Technologies Corporation, Arlington, VA (Controlling Entity: Chrysler Corporation, Highland Park, MI); Coltec Industries Inc., New York, NY; Dowty Aerospace Los Angeles, Duarte, CA (Controlling Entity: Dowty Group LTD, ENGLAND GL5 1TOP); E-Systems, Dallas, TX; FMC Corporation, Chicago, IL; GEC-Marconi, Wayne, NJ (Controlling Entity: GEC-PLC, ENGLAND W1A 1ER); General

Dynamics Corporation, St. Louis, MO; General Electric Company, Fairfield, CT; General Motors/Hughes Electronics, Los Angeles, CA; (Controlling Entity: General Motors Corp., Detroit, MI); The BF Goodrich Company, Akron, OH; Grumman Corporation, Bethpage, NY; Gulfstream Aerospace Corporation, Savannah, GA; Harris Corporation, Melbourne, FL; Heath Tecna Aerospace Company, Kent, WA (Controlling Entity: CIBA-GEIGY, Ardsley, NY); HEICO, Hollywood, FL; Hercules Incorporated, Wilmington, DE; Hexcel Corporation, Dublin, CA; Honeywell Inc., Minneapolis, MN; IBM Corporation, Armonk, NY; ITT Defense, Inc., Arlington, VA (Controlling Entity: ITT Corporation, New York, NY); Kaman Aerospace Corporation, Bloomfield, CT (Controlling Entity: Kaman Corporation, Bloomfield, CT); Lockheed Corporation, Calabassas, CA; Lord Corporation, Erie, PA; The LTV Corporation, Dallas, TX; Lucas Aerospace, Inc., Brea, CA (Controlling Entity: Lucas Industries, ENGLAND B91 3TX); Martin Marietta Corporation, Bethesda, MD; McDonnell Douglas Corporation, Berkeley, MO; Northrop Corporation, Los Angeles, CA; Ontario Corporation, Muncie, IN; Parker Hannifin Corporation, Cleveland, OH; Precision Castparts Corporation, Portland, OR; Raytheon Company, Lexington, MA; Rockwell International Corporation, El Segundo, CA; Rohr Industries, Inc., Chula Vista, CA; Smiths Industries Aerospace & Defense, Grand Rapids, MI (Controlling Entity: Smith Industries PLC, ENGLAND NW1 18DS); Teledyne, Inc., Los Angeles, CA; Texas Instruments Incorporated, Dallas, TX; Textron Inc, Providence, RI; Thiokol Corporation, Ogden, UT; TRW Inc., Cleveland, OH; United Technologies Corporation, Hartford, CT; Westinghouse Electric Corporation, Pittsburgh, PA; and Williams International, Walled Lake, MI.

Export Trade

Products

None. (AIA does not export any products or services. AIA proposes to provide export trade promotion and facilitation services to its members under the Certificate of Review.)

Export Trade Facilitation Services

Export trade promotion and facilitation services consisting of exchange of information; consulting; trade show participation; marketing and trade promotion; coordination and negotiation of the terms and conditions of participation in trade promotion activities such as air shows, trade shows, expositions, exhibitions, conferences or similar events; negotiations with providers of transportation, insurance, exhibits and lodging in connection with such trade promotion opportunities; and transportation and insurance related to the promotion of products produced by the industry and liaison with foreign government agencies and foreign trade associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. AIA and one or more of its Members seeks to:

a. Engage in planning and implementation of joint promotional activities, such as foreign trade shows, aimed at promoting the industry's products in existing or new Export Markets;

b. Agree on the frequency, level of, duration or other terms and conditions of participation in joint promotional activities, such as trade shows, for the purpose of promoting the industry's products in Export Markets; and

c. Enter into agreements wherein AIA or one or more Members acts in certain countries or markets as the Members' exclusive or non-exlusive Export Intermediary for joint promotional and facilitation activities, such as trade shows. The Export Intermediary shall be responsible for coordinating the level of participation in joint promotional activities by AIA and its Members, as well as for negotiating agreements with foreign government agencies, corporations or trade associations concerning terms and conditions of participation, transportation, insurance coverage, lodging, local transportation, and good services in connection with such joint promotional activities.

2. AIA Members seek to exchange and discuss the following types of information solely about Export Markets:

a. Information (other than information about the costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or of United States business plans, strategies or methods) that is already generally available to the trade or public;

b. Information specific to participating in promotional activities in Export Markets, such as trade shows, including, without limitation, information about the expenses, costs or other terms and conditions of participation in such activities, transportation, intermodal shipments, insurance, commissions, documentation, customs, duties and taxes; and

c. Information about U.S. and foreign legislation and regulations affecting sales in Export Markets.

3. AIA itself, or by agreement with Members or other parties, seeks to provide its Members the benefit of any services to facilitate participation in joint promotional activities in Export Markets.

4. Members seek to meet to engage in the activities described in paragraphs one through three above.

5. AIA and/or its Members seek to refuse to make available export promotional services, or participation in activities described in paragraphs one through four above, to Non-Members.

Definitions

1. "Export Intermediary" means any person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Promotion and Facilitation Services.

2. "Member" means those AIA companies that are listed in this Notice, which is incorporated by reference.

3. "Non-Member" means any person other than AIA, Members, and their respective U.S. and foreign subsidiaries and affiliates.

Abbreviated Amendment Procedure

New AIA Members and current AIA Members not listed in this Notice may from time to time be incorporated in the Certificate pursuant to the abbreviated amendment procedure described below. An abbreviated amendment shall consist of a written notification to the Secretary of Commerce and the Attorney General stating changes to AIA membership, identifying all new AIA Members that desire to become a member under this abbreviated amendment procedure. Notice of Members so identified shall be published in the **Federal Register**. However, AIA may withdraw one or more individual Members from the application for the abbreviated amendment. If thirty days or more following publication in the **Federal Register**, the Secretary of Commerce, with the concurrence of the Attorney

General, determines that the incorporation in the Certificate of these Members through the abbreviated amendment procedure is consistent with the standards of the Act, the Secretary of Commerce shall amend the Certificate of Review to incorporate such members, effective as of the date on which the application for amendment is deemed submitted. If the Secretary of Commerce does not within 60 days of publication in the **Federal Register** so amend the Certificate of Review, such amendment must be sought through the non-abbreviated amendment procedure. This same procedure may be utilized by AIA to delete one or more Members from the Certificate.

Terms and Conditions of Certificate

(a) In engaging in Export Trade Activities and Methods of Operation, neither AIA nor any Member shall intentionally disclose, directly or indirectly, to any other Member any information that is about its or any other Member's costs, production, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless (i) such information is already generally available to the trade or public; or (ii) the information disclosed is a necessary term or condition (e.g., price, length of participation, etc.) of an actual or potential bona fide promotional activity and the disclosure is limited to the prospective activity sponsor.

(b) Any agreement, discussions, or exchanges of information under this Certificate shall be in connection only with actual or potential bona fide export promotional activity and shall be on an event-by-event basis only, and shall include only those Members participating or having a genuine interest in participating in the event.

(c) Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member, subject to the honoring of contractual commitments for participating in specific export promotional activities. A Member may withdraw from coverage under this Certificate at any time by giving written notice to AIA, a copy of which AIA shall promptly transmit to the Secretary of Commerce and the Attorney General.

(d) AIA and its Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or Attorney General for information or documents relevant to conduct under this Certificate. The Secretary of Commerce will request such information when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade Activities or Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Dated: January 15, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-1484 Filed 1-21-92; 8:45 am]

BILLING CODE 3510-DR-M

University of Southern California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-127. *Applicant:* University of Southern California, Los Angeles, CA 90089-0483. *Instrument:* Epitor Metalorganic Chemical Deposition System. *Manufacturer:* Thomas Swan and Company, United Kingdom. *Intended Use:* See notice at 56 FR 47187, September 18, 1991. *Advice Submitted by:* National Institute of Standards and Technology, December 5, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides concentration control of reactants to 0.01% by electronic monitoring and optical access with sufficient aperture and mechanical stability for micron-sized imaging with laser-assisted crystal growth for selected area deposition. The National Institute of Standards and Technology advises in its memorandum that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-1546 Filed 1-21-92; 8:45 am]

BILLING CODE 3510-DS-M

Argonne National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-148. *Applicant:* Argonne National Laboratory, Argonne, IL 60439-4837. *Instrument:* ICP Mass Spectrometer System, Model PlasmaQuad PQ2. *Manufacturer:* Fissons Instruments, Inc., United Kingdom. *Intended Use:* See notice at 56 FR 56408, November 4, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a detection limit of 0.01 ng/ml for uranium and other actinide elements and may be operated in isolation from radioactive samples. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-1547 Filed 1-21-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service.

ACTION: Modification of Scientific Research Permit (674).

Notice is hereby given that pursuant to the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service regulations governing endangered species permits (50 CFR

parts 217–222), and the Conditions hereinafter set out, Scientific Research Permit No. 674, issued to the State of Connecticut, Department of Environmental Protection, Fisheries Bureau, Marine Fisheries Office, P.O. Box 248, Waterford, CT 06385 on June 28, 1989, is modified to extend the effective date until December 31, 1993.

The modification becomes effective upon publication in the **Federal Register.**

Documents pertaining to this Modification and Permit are available for review in the following offices by appointment.

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Highway, Silver Spring, Maryland, 20910 (301/713-2289); and

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts, 01930 (508/281–9200).

Dated: January 14, 1992.

Nancy Foster,

Director, Office of Protected National Marine Fisheries Service.

[FR Doc. 92–1454 Filed 1–21–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 5 to Permit No. 558 (P365).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Public Display Permit No. 558 issued to Loro Parque, S.A., 38400 Puerto de la Cruz, Tenerife, Spain on July 9, 1986 (51 FR 26176) and modified on July 31, 1987 (52 FR 29406), March 15, 1989 (54 FR 10694), February 2, 1990 (55 FR 3632) and January 1, 1991 (56 FR 1520), is further modified as follows:

Section B.7 is changed to read:

B.7 The authority to capture or otherwise acquire these marine mammals shall extend from the date of issuance through December 31, 1992. The terms and conditions of this Permit (Sections B and C) shall remain in effect as long as one of the marine mammals taken hereunder is maintained in captivity under the authority and responsibility of the Permit holder.

All other conditions of the original Permit and subsequent modifications shall remain in force and effect.

This modification becomes effective on January 1, 1992.

Documents submitted in connection with the above modification are available for review by appointment in the following offices:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, SSMC#1, room 7324, Silver Spring, Maryland 20910 (301/713–2289);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813/893–3141); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415 (213/514–6196).

Dated: January 13, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–1455 Filed 1–21–92; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

January 15, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: January 23, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9480. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for several categories are being adjusted by the application of swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 56986, published on November 7, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 15, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 4, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1991 and extends through June 30, 1992.

Effective on January 23, 1992, you are directed to amend further the directive dated June 4, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted twelve-month limit [1]
219	3,591,232 square meters.
313	9,043,559 square meters.
315	19,151,257 square meters.
347/348	1,062,470 dozen.
351/651	329,139 dozen.
604–A [2]	314,135 kilograms.
613/614/615	16,231,039 square meters.
641	1,611,006 dozen.
Levels in Group II	
611	4,280,299 square meters.
619/620	5,410,134 square meters
634	54,286 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1990.

[2] Category 604–A: only HTS number 5509.32.0000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–1479 Filed 1–21–92; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a Guaranteed Access Level and Amendment of the Export Visa Arrangement for Certain Textiles and Textile Products Produced or Manufactured in Panama

January 16, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending the export visa arrangement and establishing a guaranteed access level.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Republic of Panama agreed to amend their existing export visa arrangement to require the complete name and address of the actual manufacturer of the textile product on the original visa document. If a textile product has been processed by more than one manufacturer, the complete name and address of the last firm to substantially transform the article into a new and different article of commerce must be included on the original visa document.

In addition, certification requirements are being established for goods entered under the Special Access Program and exported from Panama on and after February 1, 1992. A notice published in the Federal Register on December 13, 1991 (56 FR 65045) announced that on January 1, 1992, U.S. Customs Service would begin signing the first section of form ITA–370P for goods to be re-exported from Panama to the United States during the period February 1, 1992 through March 31, 1993.

Requirements for participation in the Special Access Program are available in Federal Register notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989. Also see 56 FR 41335, published on August 20, 1991.

Interested persons are advised to take all necessary steps to ensure that textile products, produced or manufactured in Panama, which are entered into the United States for consumption, or withdrawn from warehouse for consumption, meet the visa requirements or, if entered under the Special Access Program and exported from Panama on or after February 1, 1992, meet the stated certification requirements.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

January 16, 1992.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on August 14, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Panama which were not properly visaed by the Government of Panama.

Effective on February 3, 1992, for goods produced or manufactured in Panama and exported from Panama on and after February 1, 1992, you are directed to require that the complete name and address of the actual manufacturer of the textile product be included on the original visa document. If a textile product has been processed by more than one manufacturer, the complete name and address of the last firm to substantially transform the article into a new and different article of commerce must be included on the original visa document.

In accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, and the Special Access Program as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1986) and 54 FR 50425 (December 6, 1989), you are directed to prohibit, effective on February 3, 1992, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, assembled in Panama from fabric formed and cut in the United States and exported from Panama on and after February 1, 1992, to be re-entered into the United States under the Special Access Program, which are not certified in accordance with the procedures outlined below.

Each shipment of apparel or made-up products which has been assembled in Panama wholly from components cut in the United States from U.S.-formed fabric and which falls under HTS number 9802.00.8010 which is subject to a Guaranteed Access Level (GAL) must be accompanied by a certification issued by the appropriate Panamanian authorities and a completed Export Declaration (form ITA-370P).

Each shipment of apparel or made-up products as assembled in the preceding paragraph and then subject in Panama to bleaching, acid-washing, stone-washing, garment dyeing, or permapressing following assembly will still qualify for a GAL even though it may not be classified under HTS number 9802.00.8010 and shall be GAL certified by the appropriate Panamanian authorities.

Shipments of textile products not accompanied by a properly issued certification and an Export Declaration shall be accompanied by a properly issued visa.

Each shipment shall be certified by the placing of the original square shaped stamped marking in blue ink on the front of the original commercial invoice. The original certification shall not be affixed to duplicate copies of the invoice. The original copy of the invoice with the original certification will be required in order to enter the shipment into the United States. Duplicate copies of the certification may not be used.

The certification stamp will include the following:

1. The certification number. The certification number shall be the standard nine-digit/letter format beginning with one numeric digit for the last digit of the year of export, followed by the International Organization for Standardization (ISO) (the Code for Panama is "PA"). The first two codes shall be followed by the number "2" and a five-digit numerical serial number identifying the shipment (e.g., 2PA212345).

2. The date of issuance. The date of issuance shall be the day, month and year on which the certification was issued.

3. The signature of the issuing official.

4. The correct category, merged category, quantity(s), and unit(s) of quantity provided for in the U.S. Department of Commerce CORRELATION and in the Harmonized Tariff Schedule of the United States or successor document shall be reported in the spaces provided within the certification stamp (e.g., "Cat. 347/348–510 doz").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category certification or the correct category corresponding to the actual shipment. Rounding up or down to the nearest whole number shall be permitted. Quantities of less than a single unit shall not be construed to be zero.

U.S. Customs shall not permit entry of a product under HTSUSA 9802.00.8010 or subject to chapter 61 Statistical Note 5 or chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule which require the use of the statistical prefix "H" unless it is accompanied by a Shipper's Declaration.

U.S. Customs shall not permit entry if the shipment does not have a certification, or if the certification number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the certification is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the certification is more than that of the shipment, entry shall be permitted.

If U.S. Customs determines that the certification is invalid because of a minor error, such as a typographical error, and the

remaining documentation fulfills requirements for entry under the Special Access Program, then a new certification or waiver must be obtained and presented to the U.S. Customs Service before any portion of the shipment will be released.

Entry of textile and apparel products subject to the certification system will be permitted only for those shipments accompanied by:

1. A valid certification by the Government of Panama.

2. A completed copy of the Shipper's Declaration (U.S. form ITA–370P or successor document) with a proper declaration by the Panama assembler that the articles were subject to assembly in Panama.

3. A proper importer's declaration.

Any shipment which is declared for the Special Access Program but found not to qualify may be permanently denied entry into the United States.

You are directed to establish a guaranteed access level of 400,000 dozen for properly certified textile products in Categories 347/348 which are assembled in Panama from fabric formed and cut in the United States and exported during the fourteen-month period which begins on February 1, 1992 and extends through March 31, 1993.

Visaed merchandise and products eligible for the Special Access Program may not appear on the same invoice.

A facsimile of the certification stamp and a list of the authorizing officials of the Government of the Republic of Panama are enclosed with this letter.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

REPUBLIC OF PANAMA
GAL

Visa Nº .....PA2 .....

Category --- Quantity

....

....

....

Date: .....
Authorized:
Signature: .....

TEXTILE & APPAREL VISA

Officials of the Government of the Republic of Panama Authorized to Sign GAL Certifications

Joaquin Fernando Franco III, Director Ejecutivo
Enrique Jimenez V., Jefe de Tramites de Exportacion
Ledie Caballero, Subjefe de Tramites de Exportacion
Cecilia De MacOficial de Tramites
Amada De Casis, Inspectora de Aduana
Johvanny Synnak, Inspector de Aduana

[FR Doc. 92–1544 Filed 1–21–92; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Intent to Repay to the Louisiana State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay to the Louisiana State Department of Education, the State educational agency (SEA), an amount equal to 75 percent of the $103,056 recovered by the U.S. Department of Education as a result of a final audit determination. This notice describes the SEA's plan for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATES: All comments must be received on or before February 21, 1992.

ADDRESSES: All comments should be addressed to Mr. Ramon Ruiz, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6135.

FOR FURTHER INFORMATION CONTACT: Mr. Ramon Ruiz, Telephone: (202) 401–0740. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern Time.

SUPPLEMENTARY INFORMATION:

A. Background

The U.S. Department of Education recovered $103,056 from the Louisiana Department of Education (SEA) in satisfaction of claims arising from audits covering fiscal year (FY) 1985.

The claims involved the SEA's administration of the Migrant Education Program (MEP) authorized under chapter 1 of title I of the elementary and Secondary Education Act of 1965, a program that addresses the special educational needs of migrant children. Specifically, the final audit determination issued by the Assistant Secretary for Elementary and Secondary Education found that MP funds had been spent in Jefferson Davis and Acadia Parishes (a) in a manner inconsistent with the Louisiana SEA's approved Migrant Education Program State plan and with the approved parish subgrant applications, which did not authorize the research project carried out with the funds in question, and (b) using improper, non-competitive procurement practices. The determination was appealed to the Education Appeal Board, which issued an initial decision upholding the Assistant Secretary's claim. After the decision became final, the SEA and Secretary executed a settlement agreement in which the SEA, while admitting no wrongdoing, agreed to repay $103,056 to the Department. Louisiana paid this sum to the Department on June 29, 1990.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purpose of the

program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $77,292 and has submitted a plan for use of the grantback funds to meet the special educational needs of migrant children in programs administered under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended.

Because of the nature of the activities that led to the original audit determination, the Secretary is satisfied with Louisiana's assertions that migrant children Statewide were those affected by the practices that were the subject of the audit determination. Therefore, the SEA plan for the use of grantback funds to benefit eligible migrant children Statewide, as described below, is satisfactory.

The SEA proposes to use grantback funds for allowable activities and costs under the Chapter 1 Migrant Education Program. Under the plan, grantback funds will be used in two areas: school/community resource linkages and special secondary projects. These components are extensions or enhancements of objectives contained in the currently approved State plan. During the 1991–92 school year, the SEA will appoint a State-level staff member to monitor and provide technical assistance to local project "linkers." Linkers are local school district employees who are responsible for placing eligible migrant children in school, community, State, and regional support services. Funds also will be made available to develop and reproduce school or project site-level materials for the linker manuals.

During the summer and fall of 1992, an LEA fiscal agent will use other grantback funds to coordinate a statewide summer institute for migrant secondary students, focusing on dropout prevention and college/career orientation needs. The remaining portion of the grantback funds will be used to provide follow-up tutoring for summer institute participants.

D. The Secretary's Determinations

Based on a detailed review of the plan and information submitted by the SEA, the Office of Elementary and Secondary Education (OESE) is satisfied that the SEA has met the conditions imposed by section 456(a) on the award of a grantback.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded form taking appropriate administrative action.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Secton 456(d) of GEPA required that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Louisiana SEA under a grantback arrangement. The grantback award would be in the amount of $77,292, which is 75 percent—the maximum percentage authorized by the statute—of the funds recovered by the Department as a result of the audit.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan submitted by the SEA and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by December 31, 1992 and in accordance with the SEA's plan.

(3) The SEA, not later than March 31, 1993 will submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the projects for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditure of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.011, Chapter 1 Migrant Education Program.)

Dated: January 15, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–1536 Filed 1–21–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER91–558–000]

Cleveland Electric Illuminating Co.; Notice of Filing

January 15, 1992.

Take notice that on November 22, 1991, Centerior Energy, on behalf of the Cleveland Electric Illuminating Company, tendered for filing additional information supplementing its earlier filing in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–1467 Filed 1–21–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–211–000]

Detroit Edison Co.; Notice of Filing

January 15, 1992.

Take notice that on December 23, 1991, the Detroit Edison Company tendered for filing additional information supplementing its earlier filing in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1466 Filed 1-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-255-000]

Northwest Pipeline Corp., Notice of Application

January 15, 1992.

Take notice that on December 18, 1991, Northwest Pipeline Corp. (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP92-255-000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a transportation service for ANR Pipeline Company (ANR), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that the transportation service was authorized by the Commission in Docket No. CP78-119 and carried out under the terms of a Gas Gathering and Transportation Agreement dated September 23, 1977, and an amended Gas Transportation Agreement dated November 17, 1978. It is stated that these agreements are on file with the Commission as ANR's Rate Schedule X-58 and X-59 in Northwest's FERC Gas Tariff, Original Volume No. 2. It is explained that Northwest and ANR have mutually agreed to terminate the transportation service by signing Termination Agreements dated April 30, 1991, and April 1, 1991, respectively, to terminate the Rate Schedule X-58 agreement effective June 1, 1991, and the Rate Schedule X-59 agreement effective April 1, 1991. It is further explained that no facilities would be abandoned in conjunction with the proposed abandonment of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-1468 Filed 1-21-92; 8:45 am]

BILLING CODE 6717-01-M

Applications Filings, Establishing Relicensing Processing Deadlines and Establishing Date for Submission of Final Amendments

January 15, 1992.

Applications for new license have been filed with the Commission as described on the list attached to this notice.

If any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of any listed application on its merits, a request for study, together with justification for such a request in accordance with § 4.32 of the Commission's regulations, must be filed no later than 60 days after the application filing date. For those applications filed before December 31, 1991, this time is hereby extended to March 1, 1992.

The following are the procedures and preliminary schedules that will be followed to the extent feasible in processing each application:

Date	Action
May 1, 1992 [1]	Commission notifies applicant that its application has been accepted. The notification of acceptance will specify the need for additional information, if any, and the date information is due.
May 15, 1992 [1]	Commission issues public notice of the accepted application in local newspapers and the Federal Register establishing dates for filing motions to intervene and protests.
December 1, 1992	Commission publishes notice in the Federal Register that the application is ready for environmental analysis and solicits recommendations, mandatory terms, fishway prescriptions, and pubic comments on the application.

[1] These dates are September 1 and 15, 1992, respectively for applications found to be deficient.

The Commission's deadline for the applicant's filing of a final amendment to each application is April 1, 1992.

Upon receipt of all additional information and the responses to both of the above public notices, the Commission will evaluate each application in accordance with applicable statutory requirements and take appropriate action on the application.

Lois D. Cashell,

Secretary.

Project No., state filing date	Applicant	Contact
P-1862-009, WA 12/26/91	City of Tacoma, Department of Public Utilities, 3628 South 35th Street, P.O. Box, 11007, Tacoma, WA 98411.	Garth Jackson, P.E., Resource Development Coordinator, City of Tacoma, Department of Public Utilities, Light Division, P.O. Box, 11007, Tacoma, WA 98411, (206) 593-8298.
P-2187-002, CO, 12/30/91	Public Service Company of Colorado, 1225-17th Street, P.O. Box 940, Denver, CO 80201-0840.	Richard A. Petzke, Public Service Company of Colorado, 5900 E. 39th Avenue, Denver, CO 80207, (303) 329-1578.
P-2275-001, CO, 12/30/91	Public Service Company of Colorado, 1225-17th Street, P.O. Box 940, Denver, CO 80201-0840.	Richard A. Petzke, Public Service Company of Colorado, 5900 E. 39th Avenue, Denver, CO 80207, (303) 329-1578.
P-2283-005, ME, 12/10/91	Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2287-003, NH, 12/26/91	Public Service Company of New Hampshire, 1000 Elm Street, P.O. Box 330, Manchester, NH 03105.	James J. Kearns, Public Service Company of New Hampshire, 1000 Elm Street, P.O. Box 330, Manchester, NH 03105, (603) 634-2799.
P-2288-004, NH, 12/26/91	Public Service Company of New Hampshire, 1000 Elm Street, P.O. Box 330, Manchester, NH 03105.	James J. Kearns, Public Service Company of New Hampshire, 1000 Elm Street, P.O. Box 330, Manchester, NH 03105, (603) 634-2799.
P-2290-006, CA, 12/27/91	Southern California Edison Company, P.O. Box 800, Rosemead, CA 91770.	David N. Barry, Southern California Edison Company, 2244 Walnut Grove Ave., Rosemead, CA 91770, (818) 302-1564.
P-2300-002, NH, 12/17/91	James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, NH 03570-2489.	George W. Hill, James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, NH 03570-2489, (603) 752-4600.
P-2306-008, VT, 12/23/91	Citizens Utility Company, High Ridge Park, Stamford, CT 06905.	Douglas C. Anderson, Citizens Utility Company, High Ridge Park, Stamford, CT 06905, (203) 329-8800.
P-2311-001, NH, 12/23/91	James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, NH 03570-2489.	George W. Hill, James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, NH 03570-2489, (603) 752-4600.
P-2315-002, SC, 12/30/91	South Carolina Electric & Gas Company, 1426 Main Street, Columbia, SC 29201.	Randolph R. Mahan, Asst. General Counsel, South Carolina Electric & Gas Company, Columbia, SC 29218, (803) 733-2841.
P-2318-002, NY, 12/19/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabattis, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474-1511.
P-2320-005, NY, 12/23/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabattis, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474-1511.
P-2323-012, MA, 12/27/91	New England Power Company, Research Drive, Westborough, MA 01582.	Mark E. Slade, New England Power Company, 25 Research Drive, Westborough, MA 01582, (508) 366-9011.
P-2325-007, ME, 11/20/91	Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 632-3521.
P-2329-005, ME, 12/10/91	Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2330-007, NY, 12/23/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabbatis, 300 Erie Blvd. West, Syracuse, NY 13202, (315) 428-6941.
P-2331-002, SC, 12/19/91	Duke Power Company, South Church Street, Charlotte, NC 28242.	John E. Lausche, Duke Power Company, 422 S. Church Street, Charlotte, NC 28242, (704) 382-8125.
P-2332-003, SC, 12/19/91	Duke Power Company, South Church Street, Charlotte, NC 28242.	John E. Lausche, Duke Power Company, 422 S. Church Street, Charlotte, NC 28242, (704) 382-8125.
P-2333-005, ME, 12/30/91	Rumford Falls Power Co., c/o Boise Cascade Corporation, Rumford, ME 04276.	Robert L. Stickney, Rumford Falls Power Co., c/o Boise Cascade Corp., Rumford, ME 04276, (207) 364-4521.
P-2334-001, MA, 12/23/91	Western Massachusetts Electric Company, P.O. Box 270, Hartford, CT 06141-0270.	R. A. Reckert, Western Massachusetts Electric Company, P.O. Box 270, Hartford, CT 06141, (203) 665-5315.
P-2336-009, GA, 12/17/91	Georgia Power Co., P.O. Box 4545, Atlanta, GA 30302	Major H. Thompson, Jr., Manager, FERC Licensing and Compliance, P.O. Box 4545, Atlanta, GA 30302, (404) 526-7140.
P-2341-004, GA, 11/20/91	Georgia Power Co., P.O. Box 4545, Atlanta, GA 30302	Major H. Thompson, Jr., Manager, FERC Licensing and Compliance, P.O. Box 4545, Atlanta, GA 30302, (404) 526-7140.
P-2342-005, WA, 12/23/91	PacifiCorp Electric Operations, S.W. Sixth Avenue, Portland, OR 97204.	Stanley A. deSousa, Dir. Hydro Resources, PacifiCorp Electric Operation, 920 S.W. Sixth Ave., Portland, OR 97204, (503) 464-5343.
P-2347-001, WI, 12/23/91	Wisconsin Power and Light Company, P.O. Box 192, 222 W. Washington Ave., Madison, WI 53701.	Norman E. Boys, P.O. Box 192, Madison, WI 53701, (608) 252-3086.
P-2348-001, WI, 12/17/91	Wisconsin Power and Light Company, P.O. Box 192, 222 W. Washington Ave., Madison, WI 53701.	Norman E. Boys, P.O. Box 192, 222 W. Washington Ave., Madison, WI 53701, (608) 252-3086.
P-2350-005, GA, 11/20/91	Georgia Power Co., P.O. Box 4545, Atlanta, GA 30302	Major H. Thompson, Jr., Manager, FERC Licensing and Compliance, P.O. Box 4545, Atlanta, GA 30302, (404) 526-7140.
P-2354-018, GA, 12/18/91	Georgia Power Co., P.O. Box 4545, Atlanta, GA 30302	Major H. Thompson, Jr., Manager, FERC Licensing and Compliance, P.O. Box 4545, Atlanta, GA 30302, (404) 526-7140.
P-2360-022, MN, 12/27/91	Minnesota Power & Light Company, 30 West Superior St., Duluth, MN 55802.	Stephen A. Kopish, Manager, Hydro Operations, Minnesota Power & Light Company, 30 West Superior Street, Duluth, MN 55802, (218) 722-2641.
P-2361-001, MN, 12/13/91	Minnesota Power & Light Company, 30 West Superior St., Duluth, MN 55802.	Stephen A. Kopish, Manager, Hydro Operations Minnesota Power & Light Company, 30 W. Superior Street, Duluth, MN 55802, (218) 722-2641.
P-2362-002, MN, 12/30/91	Blandin Paper Company, 115 First Street, SW, Grand Rapids, MN 55744.	Joseph Maher, Engineering Manager, Blandin Paper Company, (218) 327-6398.
P-2363-007, MN, 12/26/91	Potlatch Corporation, Northwest Paper Division, P.O. Box 510, 207 Avenue C, Cloquet, MN 55720.	Charles R. Pottenger, Vice President, Potlatch Corporation, (218) 879-1055.

Project No., state filing date	Applicant	Contact
P-2373-001, IL, 12/23/91	South Beloit Water, Gas and Electric Co., P.O. Box 192, Madison, WI 53701-0192.	Norman E. Boys, Wisconsin Power and Light Company, 222 W. Washington Ave, Madison, WI 53701, (608) 252-3086.
P-2376-001, VA, 12/13/91	Appalachian Power Co., 40 Franklin Road, Roanoke, VA 24022.	B.H. Bennett, Assistant Vice President, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223-2930.
P-2385-002, NY, 12/2/91	Finch, Pruyn and Company, Inc.,1 Glen Street, Glen Falls, NY 12801.	David P. Manny, Secretary, 1 Glen Street, Glen Falls, NY 12801, (518) 793-2541 ext. 203.
P-2389-012, ME, 12/30/91	Edwards Manufacturing Company, P.O. Box 97, Lisbon Falls, ME 04252.	Fred Ayer, Northrop, Devine & Tarbell, Inc., 500 Washington Ave., Portland, ME 04103, (207) 775-4495.
P-2390-003, WI, 12/16/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony G. Schuster, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2391-001, VA, 12/12/91	The Potomac Edison Co., 10435 Downsville Pike, Hagerstown, MD 21740.	D.E. Gervenak, Executive Director, Operation Allegheny Power Service Corp., 800 Cabin Hill Drive, Greensville, PA 15601, (412) 838-6835.
P-2395-003, WI, 12/31/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James M. McGinnity, 200 N. First Ave., Park Falls, WI 54552, (715) 762-3231.
P-2396-001, VT 12/31/91	Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701.	Robert de R. Stein, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701, (802) 773-2711.
P-2397-001, VT, 12/31/91	Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701.	Robert de R. Stein, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701, (802) 773-2711.
P-2399-001, VT, 12/31/91	Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701.	Robert de R. Stein, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701, (802) 773-2711.
P-2400-001, VT, 12/31/91	Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 0570.	Robert de R. Stein, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701, (802) 773-2711.
P-2402-003, MI, 12/23/91	Upper Peninsula Power Corporation, 600 Lakeshore Drive, Houghton, MI.	Clarence Fisher, P.O. Box 130, 600 Lakeshore Drive, Houghton, MI, (906) 487-5000.
P-2404-017, MI, 12/30/91	Thunder Bay Power Company, 10850 Traverse Hwy, Suite 1101, Traverse, MI 49684.	Roger Steed, 10850 Traverse Hwy, Suite 1101, Traverse, MI 49684, (616) 941-5255.
P-2406-002, SC, 12/20/91	Duke Power Company, South Church Street, Charlotte, NC 28242.	John E. Lausche, Duke Power Company, 422 S. Church Street, Charlotte, NC 28242, (704) 382-8125.
P-2407-006, AL, 12/17/91	Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291.	John E. Dorsett, Vice-President, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291, (205) 250-1380.
P-2408-007, AL, 12/17/91	Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291.	John E. Dorsett, Vice-President, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291, (205) 250-1380.
P-2411-005, VA, 12/24/91	Dan River, Inc., STS Hydropower, 111 Pfingsten Road, Northbrook, IL 60062.	Curtis Whittaker Rath, Young, Pignatelli and Oyer, P. A., Two Capital Plaza, Concord, NH 03302, (708) 272-6520.
P-2417-001, WI, 12/23/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony Schuster, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2419-007, MI, 12/30/91	Thunder Bay Power Company, 10850 Traverse Hwy, Suite 1101, Traverse, MI 49684.	Roger Steed, 10850 Traverse Hwy, Suite 1101, Traverse, MI 49684, (616) 941-5255.
P-2420-001, UT, 12/23/91	PacifiCorp Electric Operations, 920 S.W. Sixth Avenue, Portland, OR 97204.	Stanley A. deSousa, Director, Hydro Resources, PacifiCorp Electric Operations, 920 S.W. Sixth Avenue, Portland, OR 97204, (503) 464-5343.
P-2421-003, WI, 12/31/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James McGinnity, 200 North First Avenue, Park Falls, WI 54552, (715) 762-3231.
P-2425-001, VA, 12/12/91	The Potomac Edison Co., 10435 Downsville Pike, Hagerstown, MD 21740.	D.E. Gervenak, Executive Director, Operation Allegheny Power Service Corp., 800 Cabin Hill Drive, Greensville, PA 15601, (412) 838-6835.
P-2431-008, MI, 12/2/91	Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201.	David K. Porter, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201.
P-2433-004, MI, 12/17/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2436-007, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2440-002, WI, 12/18/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony G. Schuster, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2441-009, CT, 12/23/91	City of Norwich, Department of Public Utilities, 34 Court House Square, Norwich, CT 06360.	Richard DesRoches, Department of Public Utilities, 34 Court House Square, Norwich, CT 06360, (203) 887-2555.
P-2442-001, NY, 12/30/91	City of Watertown, Watertown Municipal Building, 245 Washington Street, Watertown, NY 13601-3380.	Karl R. Amylon, Watertown Municipal Building, 245 Washington Street, Watertown, NY 13601-3380, (315) 785-7730.
P-2444-002, WI, 12/30/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony Schuster, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2445-002, VT, 12/26/91	Vermont Marble Company, 61 Main Street, Proctor, VT 05765.	David L. Ferris, Vermont Marble Company, 61 Main Street, Proctor, VT 05765, (802) 459-3311.
P-2446-001, IL, 12/27/91	Commonwealth Edison Company, P.O. Box 767, Chicago, IL 60690-0767.	J.S. Graves, Commonwealth Edison Company, P.O. Box 767, Chicago, IL 60690, (312) 294-3545.
P-2447-008, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2448-011, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2449-007, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2450-005, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.

Project No., state filing date	Applicant	Contact
P-2451-004, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2452-007, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2453-003, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2454-018, MN, 12/10/91	Minnesota Power & Light Company, 30 West Superior St., Duluth, MN 55802.	Stephen A. Kopish, Manager, Hydro Operations, Minnesota Power & Light Company, 30 West Superior Street, Duluth, MN 55802, (218) 722-2641.
P-2456-009, NH, 12/26/91	James J. Kerns, Public Service Company of New Hampshire, 100 Elm Street, P.O. Box 330, Manchester, NH 03105, (603) 634-2799.	James J. Kerns, Public Service Company of New Hampshire, 100 Elm Street, P.O. Box 330, Manchester, NH 03105, (603) 634-2799.
P-2458-009, ME, 12/17/91	Great Northern Nekoosa Corporation, c/o Northern Paper Division, Georgia Pacific Corporation, One City Center, Portland, ME 04104.	Thomas E. Mark, LeBoeuf, Lamb, Leiby, MacRae, 520 Madison Avenue, New York, NY 10022, (212) 715-8000.
P-2459-005, WV, 12/20/91	West Penn Power Co., 800 Cabin Hill Drive, Greensburg, PA 15601.	Mr. D.E. Gervenak, Allegheny Power, Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601, (412) 838-6835.
P-2465-003, SC, 12/20/91	Duke Power Company, South Church Street, Charlotte, NC 28242.	John E. Lausche, Duke Power Company, 422 S. Church Street, Charlotte, NC 28242, (704) 382-8125.
P-2466-002, VA, 12/13/91	The Potomac Edison Co., 10435 Downsville Pike, Hagerstown, MD 21740.	D.E. Gervenak, Executive Director, Operation Allegheny Power Service Corp., 800 Cabin Hill Drive, Greensville, PA 15601, (412) 838-6835.
P-2468-003, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2473-002, WI, 12/31/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James McGinnity, 200 North First Avenue, Park Falls, WI 54552, (715) 762-3231.
P-2474-004, NY, 12/6/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabbatis, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428-5582.
P-2475-006, WI, 12/18/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony G. Schuster, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2476-001, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, 700 North Adam Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2482-014, NY, 12/19/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabattis, 300 Erie Blvd. West, Syracuse, NY 13202, (315) 428-5582.
P-2488-002, WI, 12/23/91	Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201.	David K. Porter, 231 W. Michigan Street, P.O. Box 2046, Milwaukee, WI 53201, (414) 221-2500.
P-2489-001, VT, 12/31/91	Central Vermont Public Service Corporation, 77 Grove Street, Ruthland, VT 05701.	Robert de R. Stein, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701, (802) 773-2711.
P-2490-001, VT, 12/31/91	Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701.	Robert de R. Stein, Central Vermont Public Servcies Corporation, 77 Grove Street, Rutland, VT 05701, (802) 773-2711.
P-2493-006, WA, 12/25/91	Puget Sound Power & Light Company, One Bellevue Center, P.O. Box 97034, Bellevue, WA 98009-9734.	Puget Sound Power & Light Company, ATTN: Virginia Pistorese, One Bellevue Center, P.O. Box 97034, Bellevue WA 98009, (206) 462-3058.
P-2496-006, OR, 12/26/91	Eugene Water & Electric Board, 500 East 4th Avenue, P.O. Box 10148, Eugene, OR 97440.	Randy L. Berggren, 500 East 4th Avenue, P.O. Box 10148, Eugene, OR 97440, (503) 484-2411.
P-2506-002, MI, 12/23/91	Mead Corporation, County Road 426, Escanaba, MI 49829	Gary L. Butryn, County Road 426, P.O. Box 757, Escanaba, MI 49829, (906) 786-1660.
P-2508-002, CT, 12/23/91	City of Norwich, Department of Public Utilities, 34 Court House Square, Norwich, CT 06360.	Richard DesRoches, Department of Public Utilities, 34 Court House Square, Norwich, CT 06360, (203) 887-2555.
P-2509-001, VA, 12/12/91	The Potomac Edison Co., 10435 Downsville Pike, Hagerstown, MD 21740.	D.E. Gervenak, Executive Director, Operation Allegheny Power Service Corp., 800 Cabin Hill Drive, Greensville, PA 15601, (412) 838-6835.
P-2513-003, VT, 12/26/91	Green Mountain Power Company, 25 Green Mountain Drive, South Burlington, VT 05402.	Eugene L. Shlatz, Green Mountain Power Corporation, 25 Green Mountain Drive, P.O. Box 850, South Burlington, VT 05402, (802) 864-5731.
P-2514-003, VA, 12/16/91	The Potomac Edison Co., 10435 Downsville Pike, Hagerstown, MD 21740.	D.E. Gervenak, Executive Director, Operation Allegheny Power Service Corp., 800 Cabin Hill Drive, Greensville, PA 15601, (412) 838-6835.
P-2519-003, ME, 11/13/91	Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2522-002, WI, 12/18/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2525-004, WI, 12/17/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2527-002 ME, 12/17/91	Central Maine Power Company Edison Drive Augusta, ME 04336.	Gerald C. Poulin, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2529-005, ME, 12/18/91	Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2532-005, MN, 11/25/91	Minnesota Power & Light Company, 30 West Superior St., Duluth, MN 55802.	Stephen A. Kopish, Manager, Hydro Operations Minnesota Power & Light Company, 30 West Superior Street, Duluth, MN 55802, (218) 722-2641.
P-2533-006, MN, 11/26/91	Potlatch Corporation, Northwest Paper Division, P.O. Box C, 207 Avenue C, Cloquet, MN 55720.	Charles R. Pottenger, Vice President, Potlatch Corporation, (218) 879-1055.
P-2535-003, GA, 12/30/91	South Carolina Electric, Gas Company, Columbia, SC 29218.	David R. Moore, General Manager, Production Engineering, S. Carolina Electric & Gas Company, Columbia, SC 29218, (803) 526-7140.
P-2538-001 NY, 12/23/91	Beebee Island, Corporation, 100 Clinton Square, Syracuse, NY 13202-1049.	David Bristol, Beebee Island Corp., 100 Clinton Square, Suite 400, Syracuse, NY 13202-1049, (315) 474-2881.

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P-2539-003, NY, 12/23/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabattis, 300 Erie Blvd. West Syracuse, NY 13202, (315) 428-5582.
P-2541-004, NC, 12/18/91	The Cascade Power Company, P.O. Box 1137, Brevard, NC 28712.	Mr. John Boaze, Fish and Wildlife Associates, Inc., P.O. Box 241, Whittier, NC 28789, (704) 497-6505.
P-2544-001, WA, 12/27/91	Washington Water Power Company, East 1411 Mission Ave., P.O. Box 3727, Spokane, WA 99220.	Mr. Daniel E. Pfeiffer, License Coordination, The Washington Water Power Company, East 1411 Mission Ave., P.O. Box 3727, Spokane, WA 99220, (509) 482-4416.
P-2546-001, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2551-004, MI, 12/11/91	Indiana Michigan Power, One Summit Square, Fort Wayne, IN 46801,(219) 425-2111.	B.H. Bennett, American Electric Power Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223-2930.
P-2552-007, MI, 11/25/91	Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2554-003, NY, 12/20/91	Moreau Manufacturing Company, 100 Clinton Square Suite 400, Syracuse, NY 13202.	John M. Cordes, 100 Clinton Square Suite 400, Syracuse, NY 13202, (315) 471-2881.
P-2555-001, ME, 12/4/91	Central Maine Power Co., Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2556-004, ME 12/4/91	Central Maine Power Co., Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2557-004, ME 12/4/91	Central Maine Power Co., Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2559-003, ME 12/4/91	Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623-3521..	Gerald C. Poulin, Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2560-001, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2561-003, MO, 12/27/91	Sho-Me Power Corporation, 301 West Jackson, Marshfield, MO 65706.	Howard Fillmer, Sho-Me Power Corporation, 301 West Jackson, Marshfield, MO 65706, (417) 468-2615.
P-2569-004, NY, 11/29/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabbatis, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428-5582.
P-2572-005, ME 12/17/91	Great Northern Nekoosa Corporation, c/o Northern Paper Division, Georgia Pacific Corporation, One City Center, Portland, ME 04104.	Thomas E. Mark, LeBoeuf, Lamb, Leiby, MacRae, 520 Madison Avenue, New York, NY 10022, (212) 715-8000.
P-2579-010, IN, 12/9/91	Indiana Michigan Power, One Summit Square, Fort Wayne, IN 46801, (219) 425-2111.	B.H. Bennett, American Electric Power Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223-2930.
P-2580-015, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R.J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2581-002, WI, 12/19/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2582-002, NY, 12/27/91	Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, NY 14649.	Earnest J. Ierardi, Nixon, Hargrave, Evans & Doyle, P.O. Box 1051, Rochester, NY 14603, (716) 263-1596.
P-2583-004, NY, 12/17/91	Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, NY 14649.	Earnest J. Ierardi, Nixon, Hargrave, Evans & Doyle, P.O. Box 1051, Rochester, NY 14603, (716) 263-1596.
P-2584-003, NY, 12/27/91	Rochester Gas & Electric Corporation, 89 East Avenue, Rochester, NY 14649.	Clyde A. Forbes, Rochester Gas & Electric Corporation, 89 East Avenue, Rochester, NY 14649, (716) 724-8110.
P-2587-002, WI/MI, 12/16/91	Northern States Power Company, 100 N. Barstow St., P.O. Box 8, Eau Claire, WI 54702.	Anthony Schuster, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839-2401.
P-2595-005, WI, 12/18/91	Wisconsin Public Service Corporation, 700 N. Adams St., Green Bay, WI 54307.	R.A. Krueger, P.O. Box 19002, Green Bay, WI 54307, (414) 433-1268.
P-2596-002, NY, 12/4/91	Rochester Gas and Electric, 89 East Avenue, Rochester, NY 14649.	Earnest J. Ierardi Nixon, Hargrave, Evans & Doyle, P.O. Box 1051, Rochester, NY 14603, (716) 263-1596.
P-2599-005, MI, 12/19/91	Consumers Power Company, 212 West Michigan Ave., Jackson, MI 49201.	R. J. Nicholson, 1945 W. Parnall Road, Jackson, MI 49201, (517) 788-1270.
P-2607-001, NC, 12/18/91	Duke Power Company, 422 South Church St., Charlotte, NC 28242.	Mr. John E. Lansche, Associate General Counsel, Duke Power Company, 422 S. Church St., Charlotte, NC 28242, (704) 382-8125.
P-2608-002, MA, 12/23/91	Decorative Specialties International Inc., Front Street, West Springfield, MA 01089.	David Garwood, Decorative Specialties International Inc., Front Street, West Springfield, MA 01089, (413) 736-4554.
P-2613-005, ME, 12/24/91	Central Maine Power Co., Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2613-005, ME, 12/24/91	Madison Paper Industries, P.O. Box 129, Madison, ME 04950.	Jack E. Chinn, Madison Paper Industries, P.O. Box 129, Madison, ME 04950, (207) 696-3307.
P-2613-005, ME, 12/24/91	Scott Paper Company, Scott Plaza Two, Philadelphia, PA 19113.	Nicholas DeBenedictus, Scott Paper Company, Scott Plaza Two, Philadelphia, PA 19113, (215) 522-5817.
P-2613-005, ME, 12/24/91	Merimil Limited Partnership, c/o Central Maine Power Co., Edison Drive, Augusta, ME 04336.	R. Edward Hanson, Merimil Ltd Partnership, Edison Drive, Augusta, ME 04336, (207) 623-3521.
P-2613-005, ME, 12/24/91	Augusta Development Corp., c/o Edwards Manufacturing Company, P.O. Box 97, Lisbon Falls, ME 04252.	Mark L. Isaacson, Edwards Manufacturing Company, P.O. Box 97, Lisbon Falls, ME 04252.
P-2616-004, NY, 12/19/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabattis, 300 Erie Blvd. West, Syracuse, NY 13202, (315) 428-5582.
P-2640-010, WI, 12/27/91	Flambeau Paper Corporation, 200 N. First Ave., Park Falls, WI 54552.	James M. McGinnity, 200 N. First Ave., Park Falls, WI 54552, (715) 762-3231.
P-2641-001, NY, 12/30/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabbatis, 300 Erie Blvd. West, Syracuse, NY 13202, (315) 428-6941.
P-2643-001, OR, 12/24/91	PacifiCorp Electric Operations, 920 S.W. Sixth Avenue, Portland, OR 97204.	Stanley A. deSousa, Director, Hydro Resources, PacifiCorp Electric Operations, (503) 464-5343.
P-2645-029, NY, 11/29/91	Niagara Mohawk Power Corporation, 300 Erie Blvd. West, Syracuse, NY 13202.	Jerry L. Sabbatis, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428-5582.
P-2671-002, ME, 12/24/91	Kennebec Water Power Company, c/o Central Maine Power Company, Edison Drive, Augusta, ME 04336.	Gerald C. Poulin, Kennebec Water Power Company, c/o Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623-3521.

Project No., state filing date	Applicant	Contact
P-2689-001, WI, 12/27/91	Scott Paper Company, 106 E. Central Avenue, Oconto Falls, WI 54154.	Thomas Cosgrove, 106 E. Central Avenue, Oconto Falls, WI 54154, (414) 846-3411 ext. 3272.
P-2712-004, ME, 12/30/91	Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04401.	William J. Madden, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005, (202) 371-5700.

[FR Doc. 92-1469 Filed 1-21-92; 8:45 am]
BILLING CODE 6717-01-M

Office of Energy Research

Fusion Energy Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Fusion Energy Advisory Committee (FEAC).

Date and Time: Wednesday, February 5, 1992—9 a.m.—5 p.m., Thursday, February 6, 1992—9 a.m.—5 p.m.

Place: Sheraton Hotel, 5115 Hopyard Road, Pleasanton, CA.

Contact: Deborah Lonsdale, U.S. Department of Energy, GTN, Office of Fusion Energy (ER-50), Office of Energy Research, Washington, DC 20585, Telephone: 301-903-4941.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy on the complex scientific and technical issues that arise in the planning, management, and implementation of its Fusion Energy Program.

Tentative Agenda:

Wednesday, February 5, 1992

- Reports from Panel #1 on the International Thermonuclear Experimental Reactor, and from Panel #2 on the U.S. Program after the Tokamak Fusion Test Reactor (TFTR).
- Discussion of Panel #1 and Panel #2 Reports.
- Public Comment (10 Minute Rule).

Thursday, February 6, 1992

- Continued Discussion of Panel #1 and Panel #2 Reports.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Deborah Lonsdale at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 15, 1992.

Marcia L. Morris,

Deputy Advisory Commitee Management Officer.

[FR Doc. 92-1541 Filed 1-21-92; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of November 4 through November 8, 1991

During the week of November 4 through November 8, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

David Dekok, 11/5/91, *LFA-0151*

David Dekok (DeKok) filed an Appeal from a partial determination issued by the DOE's Freedom of Information and Privacy Branch on two requests for information DeKok had filed under the Freedom of Information Act (FOIA). In his requests, DeKok sought a wide range of documents pertaining to the Three Mile Island incident. The Freedom of Information and Privacy Branch failed to provide all the requested items, and DeKok appealed, challenging the adequacy of the search. The DOE remanded certain portions of the requests, either because it determined that the search for those items was inadequate or because it was not able to obtain the information necessary to evaluate the adequacy of the search within the time permitted for the Appeal.

Firearms Training Systems, Inc., 11/4/91, LFA-0161

Firearms Training Systems, Inc., filed an Appeal from a denial by the Inspector General (IG) of a request for information filed under the Freedom of Information Act (FOIA). The appellant sought records of a pending investigation by the IG into a complaint that had been made by the appellant alleging improper use of its proprietary information. In his determination, the IG found that the requested information fell within the scope of Exemption 7(A), which exempts from mandatory disclosure documents whose release could interfere with enforcement proceedings. However, the IG completed his investigation subsequent to his FOIA determination. The DOE found that because there was currently no pending or potential investigation, the documents could not be withheld pursuant to Exemption 7(A) but noted that other FOIA exemptions might apply to the requested documents. Accordingly, the Appeal was granted in part and the matter was remanded to the IG for a determination on whether the requested documents should be withheld pursuant to some other FOIA exemption.

James L. Schwab, 11/4/91, *LFA-0162*

James L. Schwab (Schwab) filed an Appeal from a denial by the DOE Field Office, Albuquerque (DOE/AL), of a request for information submitted under the Freedom of Information Act. In its determination, DOE/AL stated that a search had been conducted but that no responsive documents were found. Schwab challenged the adequacy of the search. In considering the Appeal, the DOE found (1) Schwab's request did not reasonably describe the documents he was seeking and (2) if a new request is submitted which is still ambiguous, the Authorizing Official should invite Schwab to confer with DOE/AL personnel in an attempt to restate the request. Schwab's appeal was accordingly denied.

Refund Applications

Exxon Corp./Karas Car Wash, Inc., 11/16/91, RR307-13

On November 6, 1991, the DOE issued a Decision and Order denying a Motion for Reconsideration filed by Donald Kuhn, the owner of Karas Car Wash, Inc. (Karas). In that Motion, Mr. Kuhn sought reconsideration of an earlier Decision and Order that concluded that a refund granted to him in the Exxon refund proceeding should be rescinded. The refund has been rescinded because Mr. Kuhn had failed to show that he owned Karas during the period of price controls or that he was otherwise

entitled to a refund. In denying Mr. Kuhn's Motion, the DOE found that Mr. Kuhn did not own Karas during the refund period and that the agreement under which he purchased Karas did not transfer the right to a refund to him. The DOE also rejected the claim that the right to a refund was transferred to Mr. Kuhn under the doctrine of equitable assignment.

Liquid Petroleum Corp., 11/8/91, RF272–63868

The DOE issued a Decision and Order concerning an Application for Refund submitted on behalf of the Liquid Petroleum Corp. (LPC), a reseller of refined petroleum products. LPC requested a refund from crude oil overcharge monies available for disbursement pursuant to the provisions of 10 CFR part 205, subpart V (subpart V). To support its refund request, LPC submitted its "banks" of unrecovered product costs, the testimony of Dr. Peter Linneman, a report written by Dr. Linneman entitled "The Econometric Evidence Concerning The Absorption Of Crude Oil Cost Increases By The Liquid Propane Gas Industry And End Users," and a third report prepared by Dr. Linneman which consisted of an analysis of the Texas and Oklahoma regional propane prices in connection with crude oil price increases. However, the DOE determined that LPC's submissions did not demonstrate that LPC absorbed the crude oil overcharges. Accordingly, LPC's Application for Refund was denied.

Orion & Global Chartering Co., Inc. Erota Oceanica Brasileria, 11/8/91, RF272–64069, RD272–64069, RF272–71305, RD272–71305

The DOE granted two Applications for Refund filed in the Subpart V crude oil special refund proceeding by foreign flagship carriers operating ocean-going vessels in foreign commerce with the United States. Rejecting arguments raised by a group of State governments, the DOE concluded that (i) the applicants were eligible to receive crude oil refunds even though they were under foreign ownership and (ii) foreign ocean carriers were not automatically able to pass through increased bunker fuel costs to their customers. As end-users of the petroleum products involved, the applicants were presumed injured by the crude oil overcharges. Therefore, the DOE granted refunds to both applicants in the amount of $192,630, and denied two related Motions for Discovery filed by the States. The Statement of Objections filed by a consortium of 32 States and U.S. Territories was denied and two related Motions for Discovery were dismissed.

Pendleton Construction Corp., 11/4/91, RF272–73256, RD272–73256

The DOE issued a Decision and Order concerning an Application for Refund filed by the Pendleton Construction Corp. in the subpart V crude oil special refund proceeding. The basis for the Pendleton submission was estimates of its purchases of refined products in connection with its construction operations during the period August 1973 through January 1981. Although the Pendleton Application included a brief explanation of the technique by which the firm had estimated its refined product purchases, the DOE requested that the firm submit additional information to support its Application, including a more detailed explanation of its estimations techniques and material concerning the contracts to which the firm was a party during the refund period. However, Pendleton failed to provide this material, and after repeated requests for the additional information, the firm's Application for Refund was denied. Under the circumstances, a related Motion for Discovery filed by a consortium of 32 States and Territories of the United States was dismissed.

Texaco, Inc./Farlow's Texaco, 11/7/91, RF321–5030

The DOE issued a Decision and Order in the Texaco Inc. subpart V special refund proceeding concerning an Application for Refund filed by Farlow's Texaco. The applicant was unable to substantiate its claim that it was a purchaser of Texaco products during the consent order period. Accordingly, the Application was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full text of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Centerton ARCO	RF304–12520	11/05/91
Atlantic Richfield Company/Cragin ARCO *et al*	RF304–3786	11/06/91
Atlantic Richfield Company/Don's AM/PM ARCO *et al*	RF304–3996	11/06/91
Atlantic Richfield Company/Elwell's ARCO	RR304–3	11/05/91
Atlantic Richfield Company/Gene's ARCO	RF304–12025	11/05/91
Atlantic Richfield Company/Hardy Oil Company	RF304–12606	11/08/91
Atlantic Richfield Company/Les' Service Center *et al*	RF304–3500	11/05/91
Atlantic Richfield Company/Rias ARCO	RF304–12610	11/07/91
Atlantic Richfield Company/Richard D. Thomson	RR304–5	11/04/91
Atlantic Richfield Company/Roosevelt Service Station	RF304–4215	11/04/91
State of Missouri	RF304–4681	
Miller & Sons Garage	RF304–5162	
Central Milwaukee ARCO	RF304–9227	
Atlantic Richfield Company/Sinkler, Inc.	RF304–12516	11/05/91
Atlantic Richfield Company/V&B ARCO	RF304–12515	11/05/91
Fred McDowell, Inc.	RF272–28146	11/07/91
Fred McDowell, Inc.	RF272–28146	
Gulf Oil Corporation/Cox Oil Company	RF300–6396	11/04/91
Gulf Oil Corporation/Griffin's Grocery *et al*	RF300–13511	11/04/91
Gulf Oil Corporation/Nebeker Oil Company, Inc.	RF300–13597	11/08/91
Nebeker Oil Company	RF300–13598	
H&D, Inc.	RF272–28354	11/07/91
Interstate Container Corp.	RF272–11116	11/07/91
Interstate Container Corp.	RF272–11116	
Finch, Pruyn & Co., Inc.	RF272–50456	
Finch, Pruyn & Co., Inc.	RF272–50456	
Libby-Owens-Ford Co.	RF272–47949	11/05/91
Libby-Owens-Ford Co.	RF272–47949	
Mass Merchandisers, Inc.	RF272–72084	11/07/91

Pavers, Inc.	RF272-51572	11/07/91
Peabody Municipal Light Plant	RF272-8383	11/07/91
Reinauer Petroleum Co./Knickerbocker Bed Co. *et al*	RF341-7	11/08/91
Shell Oil Company/National Butane Company	RF315-6858	11/07/91
AP Propane, Inc.	RF315-8295	
Tesoro Petroleum Corp./Texas Crushed Stone Co. *et al*	RF326-3	11/07/91
Texaco Inc/ A&A Texaco Station *et al*	RF321-10129	11/07/91
Texaco Inc./Al-N-Jack's Texaco Service *et al*	RF321-3323	11/06/91
Texaco Inc./H.L. Evans & Son, Inc. *et al*	RF321-4281	11/07/91
Texaco Inc./Haner's Texaco *et al*	RF321-5322	11/07/91
Texaco Inc./Hunt Oil Co.	RF321-17868	11/04/91
Texaco Inc./Tony's Texaco *et al*	RF321-1416	11/07/91
V.A.W. of America, Inc.	RF272-65189	11/08/91
Waconia School District *et al*	RF272-78722	11/08/91

DISMISSALS

The following submissions were dismissed:

Name	Case No.
Aberdeen and Rockfish Railroad Company.	RF272-89568
Bellows Texaco	RF321-5678
Bruce's Clark Service	RF321-11054
Cedar County, IA	RF272-85758
City of Colby	RF272-83974
City of Lenexa	RF272-84801
City of Quitman, MS	RF272-83277
Clay County, NE	RF272-85606
Glen Miller	LFA-0160
Goins Holiday Gulf	RF300-11758
Goodwill Service	FR315-7548
Jimmy Mask Texaco	RF321-14467
Kulp & Gordon, Inc.	RF272-89841
Martine Gulf #1	RF300-14155
Potomac Edison Company	RR300-107
R. L. Jones Co., Inc.	RF300-12695
Ramsey & Kelley Inc.	RF300-12600
The Arrow Line, Inc.	RF272-89558
Time Gulf	RF300-12660
Usher Transport, Inc.	RF272-90034

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 15, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-1538 Filed 1-21-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 91-115-NG]

CMEX Energy, Inc.; Application for Blanket Authorization to Import and Export Natural Gas and Liquefied Natural Gas

AGENCY: Department of Energy Office of Fossil Energy;

ACTION: Notice of application for blanket authorization to import and export natural gas and liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 23, 1991, of an application filed by CMEX Energy, Inc. (CMEX), for blanket authorization to import and to export a combined total of up to 100 Bcf of natural gas, including liquefied natural gas (LNG), from and to any foreign country. CMEX requests that the authorization be granted for a period of two years beginning on the date of the first delivery of gas or LNG after April 30, 1992, when its current blanket import/export authorization expires. CMEX intends to use existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported and exported and would continue to file quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or ntices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below no later than 4:30 p.m., eastern time, February 21, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50; 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9590.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy; Forrestal Building, room 6E-042, GC-14; 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: CMEX, a Texas corporation with its principle place of business in Dallas, Texas, is a marketer of natural gas. CMEX is currently authorized to import and export a combined total of up to 76 Bcf through April 30, 1992, under DOE/FE Opinion and Order No. 329 (Order 329), issued August 24, 1989 (1 FE Para. 70,238). CMEX's prior quarterly reports filled with FE pursuant to Order 329's reporting requirements indicate that approximately 931 MMcf of gas was exported under Order 329 through September 30, 1991. There were no imports. Under the blanket import authority sought, CMEX would purchase natural gas and LNG from a variety of foreign suppliers and resell it to various U.S. purchasers, including local distribution companies, pipelines, and commercial and industrial end-users. Under the export authority sought, CMEX would acquire domestic natural gas or LNG for resale to international markets. CMEX would import and export this gas and LNG both for its own account or as agent for the accounts of others.

The transaction which CMEX plans to enter would be for terms of up to two years or less. It anticipates that the purchase price would not remain fixed in any blanket contract for a period of more than one year, but would be adjusted on a monthly or quarterly basis

as required by market conditions, and would fluctuate with changes in the price and availability of competing fuels, including domestic natural gas. Sales would typically be on a best-efforts basis, although CMEX anticipates the possibility of entering into some firm transactions for period of up to one year. The purchase price would be determined by competitive factors in the gas market through arm's length negotiations between CMEX and its suppliers.

In support of its application, CMEX asserts that the proposed imports will make competitively priced gas available to U.S. markets while the short-term nature of the transactions will minimize the potential for undue long-term dependence on foreign sources of energy. With regards to the proposed exports, CMEX states that the volumes would be incremental to current U.S. needs and that the sale of the gas would result in a reduction of the current excess domestic natural gas supply, generate income and tax revenues, reduce the U.S. trade deficit, and increase efficiency in the North American gas market.

The decision on CMEX's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issue determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import and export authority. CMEX asserts that the proposed imports would be competitive and there is no current need for the domestic gas that would be exported. Parties opposing this application bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, request for additional procedures, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CMEX's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 15, 1992.

Clifford P. Tomaszewski,

Acting Assistant Deputy Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–1537 Filed 1–21–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–108–NG]

HPL GAS Co.; Application for Blanket Authorization To Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 17, 1991, of an application filed by HPL Gas Company (HPL Gas) requesting blanket authorization to export to Mexico up to 275 Bcf of natural gas over a two-year term beginning on the date of first delivery. The proposed exports would take place at any point on the international border where existing pipeline facilities are located.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, February 21, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8116.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal

Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: HPL Gas is a Texas corporation with its principal place of business in Houston, Texas. It is a wholly-owned subsidiary of Houston Pipeline Company, and a marketer of natural gas. HPL Gas states that the exports would be sold to Mexican purchasers under contracts with varying terms, but not to exceed two years. Although the identity of actual purchasers is presently unknown their names and the specific details of each export transaction would be filed by HPL Gas in conformity with DOE's quarterly reporting requirement. HPL Gas anticipates all sales would result from arms-length negotiations and the prices would be determined by market conditions.

This export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority.

HPL Gas asserts that due to the current gas supply surplus in the U.S., domestic producers and the states where the domestic gas is produced would benefit from the sales resulting from this export authorization. Further, HPL Gas contends that the proposed exports would lower the overall U.S. trade deficit and enhance the integration of U.S.-Mexico gas markets. HPL Gas asserts that there is no current regional or national need for the domestic gas that would be exported under the proposed arrangement. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must be the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests of additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of HPL Gas' application is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 15, 1992.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-1540 Filed 1-21-92; 8:45 am]

BILLING CODE 6450-01-M.

[FE Docket No. 91-117-NG]

RIO Energy International, Inc., Application for Blanket Authorization to Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 24, 1991, of an application filed by Rio Energy International, Inc. (Rio) requesting blanket authorization to export to Mexico up to 75,000 MMBtu of natural gas (one MMBtu equals approximately one Mcf) per day over a two-year term beginning on the date of first delivery. The proposed exports would take place either at, or near, Reynosa, Tamaulipas, Mexico, where the pipeline facilities of Texas Eastern Transmission Corporation interconnect with those of Petroleos Mexicanos (Pemex) or at other existing pipeline interconnections in Mexico. Rio intends to submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, February 21, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8116

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667

SUPPLEMENTARY INFORMATION: Rio, a Texas corporation with its principal place of business in Houston, Texas, is a marketer of hydrocarbons including natural gas, light hydrocarbons and gaseous petroleum chemicals. Rio proposes to export natural gas primarily to Pemex for local distribution by Pemex to industrial and residential users in Mexico. Rio states that gas supplies available to it in Louisiana, Texas, and New Mexico are more than adequate to provide the requested export authorization. All sales would result from arms-length negotiations and prices would be determined by market conditions. Rio believes that the competitive, short-term nature of the natural gas sales will aid in the efficient allocation of natural gas in the general marketplace.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority.

All parties should be aware that if DOE approves this requested blanket export authorization, it would designate a total authorized volume for the two-year term, or 54.75 Bcf of natural gas, rather than the 75,000 MMBtu per day requested by Rio, in order to maximize the applicant's flexibility of operation.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriation action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Amy request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Rio's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 15, 1992.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–1539 Filed 1–21–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4093–5]

Fuels and Fuel Additives; Waiver Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 211(f)(4) of the Clean Air Act (Act), Ethyl Corporation (Ethyl) has requested a waiver to permit the sale of its gasoline additive, methylcyclopentadienyl manganese tricarbonyl (MMT), an octane enhancer, commercially labeled by Ethyl as HiTEC 3000. Section 211(f)(4) authorizes EPA to grant such a waiver if it determines that the applicant has established that its fuel or additive will not cause or contribute to the failure of vehicles to meet applicable emissions standards.

In support of its request, Ethyl conducted an extensive test program to determine the effect of MMT on the ability of vehicles to comply with current and future emission standards. It also considered the impact of MMT on nonregulated vehicle emissions, urban smog or ozone, refinery emissions, and crude oil use. Ethyl claimed that its test results established that MMT would not cause or contribute to exceedences of current or future emission standards. It also claimed that MMT use would result in other benefits consistent with Clean Air Act goals.

The Agency is today denying Ethyl's request for a waiver for HiTEC 3000 based on new data submitted to the Agency which indicate that factors other than those taken into account in Ethyl's test program may significantly and adversely influence the magnitude of the emissions increase caused by the addition of HiTEC 3000 to unleaded gasoline. Hence, the Agency is unable to conclude that Ethyl has met its burden of establishing that HiTEC 3000 will not cause or contribute to the failure of a significant number of vehicles to fail emissions standards. Therefore, Ethyl's waiver request is denied.

ADDRESSES: Copies of the information relative to this application are available for inspection in public docket A–91–46 and A–90–16 at the Air Docket (LE–131)

of the EPA, room M–1500, 401 M Street, SW., Washington, DC 20460, (202) 260–7548, between the hours of 8:30 a.m. to noon and 1:30 p.m. to 3:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: David J. Kortum, Environmental Engineer, or James W. Caldwell, Chief, Fuels Section, Field Operations and Support Division (EN–397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–2635.

SUPPLEMENTARY INFORMATION:

Decision of the Administrator

I. Introduction

On July 12, 1991, Ethyl submitted its application for a waiver for use of MMT in unleaded gasoline at a concentration of 1/32 gram per gallon manganese (gpg Mn).[1] MMT is a maganese-based octane enhancer that is currently used in leaded gasoline in the United States and in unleaded gasoline (at concentrations up to 1/16 gpg Mn) in Canada. As explained later in this decision, because MMT is less expensive than other available octane enhancers, EPA expects, and Ethyl acknowledges, that MMT would eventually be used in most gasoline sold in the United States if this waiver application is granted.

II. Statutory Framework

Ethyl is seeking this waiver because the sale of MMT for use in unleaded gasoline in the United States is currently prohibited by section 221(f) of the Clean Air Act. Section 211(f)(1) bans the sale of fuels and fuel additives (collectively referred to here as fuels) that are not "substantially similar" to those used to certify 1975 and later model year motor vehicles as complying with applicable emission standards. Under EPA's interpretive rule, MMT is not considered substantially similar to certification fuel additives.[2]

Congress added section 211(f) to the Clean Air Act in 1977 to protect vehicle emission control devices from being damaged by fuels. As Congress was considering the Clean Air Act Amendments of 1977, concerns were raised that MMT, then used in unleaded gasoline, was impairing the performance of emissions control systems and increasing exhaust hydrocarbon emissions.[3] Although section 211(c) gives EPA authority to prohibit or control fuels found to harm emission control devices or public health and welfare, Congress acknowledged that the procedural safeguards required by that section did not permit EPA to act quickly enough to protect current catalysts.[4] Congress therefore decided to take a preventative approach, banning fuels not substantially similar to those used to determine compliance with emission standards. The effect of 211(f) was to ban the use of MMT in unleaded gasoline, effective September 15, 1978.

At the same time, Congress recognized that its ban could prevent the sale of cheaper or energy-optimizing fuels that did not harm emission controls.[5] In section 211(f)(4), it authorized the Administrator of EPA to waive the prohibitions and limitations of section 211(f) "if the Administrator determines that the [waiver] applicant has established that such fuel or fuel additive * * * will not cause or contribute to the failure of an emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards to which it has been certified pursuant to section 206 of the Act." [6] If the Admistrator does not act to grant or deny the waiver request within 180 days of receipt of the application (in this case, by January 8, 1992), the statute provides that the waiver request shall be treated as granted.

III. Method of Review

Section 211(f)(4) clearly places upon the waiver applicant the burden of establishing that its fuel will not cause or contribute to the failure of any vehicle to meet emission standards. Absent a sufficient showing, the Administrator may not make the required determination and may not grant the waiver. If interpreted literally, however, this burden of proof imposed by the Act would be virtually impossible for an applicant to meet, as it requires the proof of a negative proposition: That no vehicle will fail to meet emission standards to which it has been certified. Such a literal interpretation would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision, EPA has previously indicated that reliable statistical sampling and fleet testing protocols may be used to demonstrate that a fuel under consideration would not cause or contribute to a significant failure to meet emission standards by vehicles in the national fleet.[7]

To determine whether a waiver applicant has established that the proposed fuel will not cause or contribute to vehicles failing emissions standards, EPA reviews all the material in the public docket, including the data submitted with the application, and analyzes the data to ascertain the fuel's emission effects. The analysis concentrates on four major areas of concern—exhaust emissions, evaporative emissions, materials compatibility, and driveability—and evaluates the date under statistical methods appropriate to the various types of emission effects. Emission data are analyzed according to the effects that a fuel is predicted to have on emissions over time. If the fuel is predicted to have only an instantaneous effect on emissions (that is, the emission effects of the fuel are immediate and remain constant throughout the life of the vehicle when operating on the waiver fuel), then "back-to-back" emission testing will suffice.[8]

Unlike materials traditionally allowed in unleaded gasoline, metalics, such as MMT, produce non-gaseous combustion products, some of which are deposited in the parts of the vehicle which come in contact with the combustion products of the burned fuel. These areas of the vehicle include the combustion chamber, the catalyst, the oxygen sensor, and all parts of the exhaust system.[9] Since

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[1] On August 1, 1991, a notice was published in the **Federal Register** (56 FR 36810) acknowledging receipt of the application and requesting comments on it. Comments that were received have been placed in public docket A–91–46.

[2] EPA's revised interpretation of "substantially similar" was published in the **Federal Register** on February 11, 1991 at 56 FR 5352. Under this rule, fuel additives must contain only carbon, hydrogen, and any or all of the following elements: oxygen, nitrogen, and/or sulfur.

[3] S. Rep. No. 127, 95th Cong., 1st Sess. 90 (1977).

[4] *Id.*

[5] *Id.* at 91.

[6] Section 206 of the Act sets forth the certification requirements with which vehicle manufacturers must comply in order to introduce into commerce new model year motor vehicles.

Standards for hydrocarbon, carbon monoxide, and oxides of nitrogen emissions from gasoline-powered motor vehicles have been established under section 202 of the Act.

[7] See Waiver Decision on Tertiary Butyl Alcohol ("TBA"), 44 FR 10530 (February 2, 1979).

[8] Back-to-back emission testing involves testing a vehicle on a base fuel (i.e., a gasoline which meets specifications for certification fuel or is representative of a typically available commercial gasoline), then testing that same vehicle on the fuel for which the waiver is requested. The difference in emission levels is attributed to the waiver fuel.

[9] Automakers and catalyst manufacturers point out that, since catalysts are designed with a honeycomb structure in order to maximize contact between engine combustion gases and catalyst materials, if channels within the honeycomb become blocked, the catalyst is less able to break down the exhaust gases. Furthermore, although the mechanisms associated with manganese deposits have not been completely described, catalyst manufacturers suggest that the mere deposition of manganese (without blockage of channels) would hinder the catalytic activity of the catalyst. Ethyl,

Continued

these materials build up over time,[10] it has been traditionally accepted that the emissions effects of such additives occur over time as miles are accumulated, and that the method of deposition suggests that the effects are permanent. If the fuel is predicted to have a long-term deteriorative effect, durability testing over the useful life of the vehicle,[11] in addition to back-to-back testing, is appropriate.[12] In the past, EPA has analyzed durability data using statistical tests to determine if the fuel additive will cause or contribute to a "significant" number of vehicles failing emissions standards.[13] Reasonable theoretical judgments as to the emission effects of the fuel may be utilized as an alternative to direct testing of vehicles. In most cases, the theory needs to be supported by confirmatory testing.[14] If the applicant has such a theoretical basis, it may only need to conduct testing sufficient to demonstrate the validity of the theory. The theory and confirmatory testing may then form a basis from which the Administrator may exercise his judgment on whether the additive will cause or contribute to a failure of emission control devices or systems which result in vehicles failing to achieve compliance with emission standards.

In addition to emissions data, EPA also reviews data on fuel composition and specifications, both to fully characterize a proposed fuel, and to determine whether that fuel would cause or contribute to a failure of vehicles to comply with their emission standards. Such failure often can be predicted from characterization data. For example, volatility specifications of the fuel could demonstrate a tendency for high evaporative emissions. Similarly, data on materials compatibility could show potential failure of fuel systems, emission related parts, and emission control parts from use of the fuel. Such failures could result in greater emissions. Likewise, fuel characteristics that could cause significant driveability problems could result in tampering with emission controls and, thus, increased emissions.

An issue in this waiver decision is whether Ethyl must show that MMT will not cause or contribute to noncompliance with emission standards by vehicles certified to the 1994 model year emission standards, as well as vehicles certified to the current standards. Ethyl believes that the statute only requires it to establish that MMT will not cause or contribute to the failure of vehicles to meet current emission standards. EPA disagrees.

Section 211(f)(4) provides that EPA may grant a waiver if the Agency determines that the waiver applicant establishes that its candidate fuel "will not cause or contribute" to a vehicle's failure to comply with "the emissions standards with respect to which [the vehicle] has been certified pursuant to section [206]." The section thus calls for EPA to make a prospective determination—what will be the effect of the candidate fuel on vehicles in the future. Whether EPA should consider the effect on vehicles' ability to meet future emissions standards is not explicitly addressed. Clearly, consideration of future standards is not expressly prohibited.

There is no need to infer from the use of the past tense in the phase, "standards * * * to which [a vehicle] has been certified" that only current standards may be considered. Section 203 of the Act requires each new model of motor vehicle or engine to be certified as complying with emissions standards before it can be sold. In section 211(f)(4), the phrase "has been certified" simply reflects that fact. Any vehicle affected by a commercial gasoline additive will be of a type that "has been certified" to emissions standards in effect when the model was new. For vehicles made in the future, these standards could be future standards.

It would make little sense to grant a waiver without regard to its effect on vehicles' ability to meet tighter standards that take effect in the near future. It also would be inconsistent with Congress's concern that fuels not cause or contribute to vehicles' inability to comply. Conceivably, a fuel could have no effect on vehicles designed to meet current standards, but a significant effect on the technology automakers have strived to develop to meet tighter standards. EPA notes that section 211(f)(4) does not require the Agency to grant a waiver if the statutory waiver criterion is met. (See, for comparison, sections 211(k)(5)(B) and 211(m)(3).) The Agency thus has discretion in granting waivers, and for the reasons given above, EPA believes it reasonable to take into account the effect of a fuel on vehicles' ability to meet future emissions standards in exercising its discretion.

While it may not be feasible for a waiver applicant to consider the effect of its fuel on vehicles' ability to comply with standards due to take effect far in the future, that is not the case here. The "Tier I" tailpipe standards prescribed by section 202(g) begin to take effect in model year 1994, which begins in September 1993.[15] The technology that will be used to meet those standards is largely developed, and as explained later, test data submitted on MMT's emissions effect includes data from vehicles the design or technology of which are at least in part representative of vehicles being planned for the 1994 model year. EPA has previously considered the effects of an additive on vehicles' ability to meet more stringent future standards under circumstances

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however, believes that the manganese deposition on the catalyst does not hinder its activity.

[10] Reply Comments of Ethyl Corporation in Support of the HiTEC 3000 Waiver Application, August 10, 1990, 28.

[11] The current "useful life" of a light-duty vehicle (LDV) (i.e., the amount of time or mileage accumulation through which the LDV must meet the standards to which it has been certified) is 50,000 miles or five years, whichever occurs first (section 202(d). However, the Clean Air Act Amendments of 1990 extended the useful life of LDV's to 100,000 miles or ten years, beginning with 1994 model year vehicles. The amendments also tightened emissions standards for 40 percent of a vehicle manufacturer's LDV and light-duty truck (LDT) sales in model year 1994, 80 percent in model year 1995 and for all vehicles after model year 1995 (section 202(g)).

[12] Durability testing over the useful life of the vehicle involves testing two identical sets of vehicles for 50,000 miles (in the case of current standards for passenger cars), one set using the base fuel and the other using the waiver fuel. Each vehicle is tested for emissions at 5,000 mile intervals. This is essentially the same testing pattern which is required for certification of a new motor vehicle under section 206 of the Act. As noted above, under the Clean Air Act Amendments of 1990, the useful life of passenger cars will be extended to 100,000 miles beginning with the 1994 model year when more stringent standards take effect (see sections 202(d) and (g)).

[13] The Agency has statistically analyzed exhaust emissions data to determine long-term durability effects of an additive only once previously: Ethyl's original 1978 application for MMT. The portion of the statistical tests that EPA used to determine if the additive would cause (or contribute) to emissions failures deems an additive not to cause such a failure for a particular vehicle model if its use would result in no more than 10 percent of vehicles of that model failing emissions standards. Before the additive was judged to have failed the test overall, more models must fail (as discussed above) than is consistent with the hypothesis, used for statistical purposes, that the population failure rate for models is 50% (for the 8 models tested with this application, at least 7 would have to fail). As discussed later in this section, EPA questions whether it would still be appropriate for the Agency to grant a waiver to an additive that would potentially cause such a large number of vehicles to fail emissions standards, in light of continuing and widespread pollution problems to which vehicles contribute. However, the Agency did not reach that issue in this decision since, as is indicated below, newly submitted data indicate that the design of the Ethyl test program may have insufficiently covered parameters which may have a significant adverse impact on the emissions effects of MMT.

[14] See Waiver Decision on Application of E.I. DuPont de Nemours and Company (DuPont), 48 FR 8124 (February 25, 1983).

[15] 56 FR 25724/25790 (June 5, 1991).

similar to these, and believes it is appropriate to do so again here.[16]

This application also raises some important questions regarding the test programs the Agency has required to be performed and statistical criteria the Agency has used in the past to evaluate waiver applications. As noted above, the tests do permit a potentially large number of vehicles to exceed emissions standards.[17] In addition, the extent to which highly controlled vehicle testing simulates "real world" in-use [18] vehicle emissions changes is questionable. Further, the large amount of headroom [19] between test vehicles' certification emissions levels and the applicable standard that has been seen in recent years [20] may effectively result in a much lower pass/fail standard than in the past, since it is easier to pass the previously used statistical tests when there is a large amount of headroom. As emissions standards become more stringent beginning in 1994 (See appendix 2), the Agency would expect that the headroom between vehicle emissions and the standard is likely to decrease. This will result in more vehicles more easily failing standards.

In light of the Clean Air Amendments of 1990 and the likely widespread use of MMT, however, EPA questions whether its tests are still appropriate. The Clean Air Act Amendments of 1990 are a strong statement of the concern shared by Congress and the President that more needs to be done to ensure that people are not exposed to unhealthy levels of airborne pollution. Ozone, in particular, has been a difficult air pollution problem to solve. Despite the efforts states and industry had undertaken pursuant to the Clean Air Act of 1970 and the Amendments to the Act in 1977, in 1990 there were still 98 areas, containing approximately 135 million people, that violated the ambient zone standard. In the 1990 Amendments to the Act, Congress prescribed increasingly stringent and costly control measures for inclusion in state SIP's. For example, depending on the severity of an area's ozone problem, it may be required to establish or tighten already established automobile inspection and maintenance programs; install automobile refueling pumps with controls to capture refueling vapors; implement transportation control measures such as establishing carpooling lanes; or require the use of cleaner alternative fuels in fleet vehicles. Congress also called on automakers to significantly reduce new vehicle emissions and on oil refiners to reformulate gasoline so as to significantly reduce ozone-producing and toxic emissions from existing vehicles. EPA estimates the costs associated with the programs contained in the new amendments for ozone reduction in nonattainment areas to reach $11 billion per year by 2005.[21]

However, as explained in a later section, EPA cannot conclude that Ethyl has established that MMT will not cause or contribute to vehicles failing emissions standards under EPA's previously used statistical tests in light of additional data submitted to the Agency. Consequently, the Agency did not decide whether or how to change its statistical tests for determining whether a fuel will "cause or contribute" to vehicles failing emissions standards. EPA is continuing to evaluate the appropriateness of these tests.

IV. Ethyl's Application

This is Ethyl's fourth application for a waiver for MMT. Ethyl first submitted an application on March 17, 1978 for concentrations of MMT resulting in 1/16 and 1/32 gpg Mn in unleaded gasoline. That application was denied because the Agency found that the use of MMT would cause or contribute to the failure of vehicles to meet the hydrocarbon exhaust emissions standard (43 FR 41424, September 19, 1978).

Ethyl's second application was submitted on May 26, 1981 for concentrations of MMT resulting in 1/64 gpg Mn in unleaded gasoline. EPA denied the second request because Ethyl provided no test data to support its claim that MMT at that concentration would not cause or contribute to exceedences of the HC emission standard, and instead relied on a flawed mathematical argument extrapolating from HC emission data collected at higher concentrations (46 FR 58630, December 1, 1981).

Ethyl's third application was submitted on May 9, 1990 for concentrations of MMT resulting in 1/32 gpg Mn in unleaded gasoline. Ethyl withdrew its third application on November 1, 1990, before the deadline for the Administrator to make a determination on the application. Because no determination had been made at the time the applicant withdrew the application, EPA accepted the withdrawal and terminated the proceeding without taking action on it. Ethyl reapplied in July of 1991 after supplementing the data and analysis that had been contained in its third application. Essentially, the information related to the third (1990) application is pertinent to the application being considered today and all docket material submitted in consideration of the 1990 application has been incorporated, by reference, into the docket for the current (1991) application.

In support of its current application, Ethyl conducted the most extensive test program ever conducted by a waiver applicant. It sought and received EPA's help in the design of a test program that was expected to provide the data needed to determine whether MMT passed EPA's previously used statistical criteria for granting waivers. Ethyl assembled a test fleet of 48 light-duty vehicles, composed of eight different model types that together represented a broad spectrum of then current (1988) technology vehicles. It utilized two laboratories to measure each vehicle's exhaust emissions of the regulated pollutants (HC, oxides of nitrogen (NO_x) and carbon monoxide (CO)) at 5,000-mile intervals up to 75,000 miles in the case of most vehicles and up to 100,000 miles in the case of several.[22] It also tested the vehicles for evaporative HC, particulate and manganese emissions.

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[16] See 43 FR 41424 (September 18, 1978), In Re Application for MMT Waiver.

[17] The structure of the sign test used as the final step in most of the statistical tests is extremely conservative because it essentially places a very light burden on the applicant. It requires only that the applicant show that no more than half of the fleet will be caused to fail the standards by the additive. The practical implication of this arrangement of the test is that, with the small number of models usually included in the sample for such test programs, all or almost all of them must fail before the overall test is failed and the conclusion reached that the additive "causes or contributes" to the failure of a "significant portion" of the fleet to meet the standards to which they were certified.

[18] "In-use" refers to the emissions of vehicles actually being driven on public roads and highways and not part of any test program.

[19] "Headroom" here refers to the difference in emissions between the level of emissions seen in highly controlled testing of vehicles in a test program (such as with vehicle certification) and the emissions standard applicable to the vehicle. It is EPA's experience that vehicle manufacturers design this headroom into certification vehicles in order to account for the unknown effects of in-use operation. The manufacturers believe that such headroom is necessary in order to avoid expensive recalls of vehicles that fail standards in use. Despite this headroom, in calendar year 1991, 1.7 million cars were recalled for emissions exceedences.

[20] An analysis of EPA's certification data indicates that hydrocarbon certification data average 0.21 gpm.

[21] "Ozone Nonattainment Analysis—Clean Air Act Amendments of 1990", E.H. Pechan Associates, prepared for USEPA, September, 1991.

[22] The current "useful life" of a light-duty vehicle (LDV) is 50,000 miles or five years, whichever occurs first (section 202(d)). However, the Clean Air Act Amendments of 1990 extended the useful life of LDV's to 100,000 miles or ten years, beginning with 1994 model year vehicles. For the standards that begin to take effect in model year 1994, section 207(c) provides for intermediate in-use standards for several years.

materials compatibility, driveability and catalyst durability.

Ethyl analyzed the data collected using EPA's previously used statistical tests and additional tests developed by its consultants to further characterize the data. Its analysis indicated that, on average, MMT at the requested concentration would result in a 0.018 gpm increase in HC emissions and decreases in NO_x and CO emissions. The analyses further indicated that, when EPA's previously used tests are applied, the increase in HC emissions would not cause or contribute to vehicles' failure to meet the current HC emission standard. The results of Ethyl's testing for materials compatibility, driveability and catalyst durability also indicated that MMT would have no significant adverse effects on vehicles' ability to meet current emission standards under average driving conditions. On that basis, Ethyl claimed that it has made its statutorily required showing.

Additionally, Ethyl submitted an analysis of its data which, according to Ethyl, indicates that MMT will not cause or contribute to the failure of vehicles to meet future standards. Ethyl Corporation engaged Systems Applications Inc. (SAI) to undertake an analysis to determine whether the additive would be likely to pose a problem for vehicles required to meet more stringent future standards and useful life definitions. The standards used in the analysis were those which were then being considered by Congress for inclusion in the Clean Air Act. The standards Congress eventually adopted are essentially the same.

The basic strategy of the analysis was to see if a subset of five of the eight models Ethyl tested in the larger program would pass the statistical tests previously used by EPA when compared to the proposed standards. The models selected were those passing the current standard for hydrocarbon. No adjustment was made to the test vehicles' emissions other than to remove the methane fraction of hydrocarbons for comparison against the proposed non-methane hydrocarbon (NMHC) standard. The three statistical tests used were all regression-based tests: (1) The Violation Mileage test, (2) the Maximum Percent Failing to Meet Standard test, and (3) the test labeled by Ethyl the "Cause or Contribute" test.[23] Ethyl concluded that its analysis indicates that HiTEC 3000 will not cause or contribute to the failure of vehicles to meet future standards.[24]

While stating that "public health issues are not relevant to the legal standard for approval of waiver applications established by section 211(f)(4)," [25] Ethyl also assessed the potential effect of MMT use on public health and the nation's economy and energy security. In the area of public health, it examined whether MMT use would result in manganese emissions that could endanger public health. (While manganese is an essential nutrient, occupational studies have demonstrated that, at high doses, manganese can have severe adverse effects on the nervous, respiratory and reproductive systems. The health effects of manganese are discussed further in section VI–C.) Based on the data Ethyl had collected on manganese exposure, Ethyl concluded that MMT use at the requested concentration would not perceptibly change environmental exposure to manganese and, in any event, would not present any danger to human health.

Ethyl also considered the effect of MMT use on emissions of other, unregulated vehicle emissions. Its testing indicated that vehicles run on MMT emitted less formaldehyde and benzene than vehicles operated on "clear" fuel. Ethyl hired Turner and Mason, refining industry consultants, to assess how the availability of MMT would likely change gasoline composition, yield and refinery emissions. The study by Turner and Mason concluded that MMT would allow a reduction in refining severity,[26] which in turn would reduce refinery emissions (NOx, CO, oxides of sulfur (SO_x), particulates, and carbon dioxide), the use in gasoline of aromatics (which increase benzene emissions and are very reactive in forming urban smog) and benzene (a known carcinogen), as well as the demand for crude oil (by about 82,000 barrels per day).

V. Public Comments

EPA held a public hearing on Ethyl's application on September 12, 1991. It also provided an opportunity for the public to submit written comments.[27] Many comments were received from a wide variety of interests, including refiners, automakers, emission control manufacturers, manganese-related industries, federal health agencies, states, localities, environmental and public interest groups and private citizens. Taken together, the comments touched on every aspect of Ethyl's application. They are summarized below; more detailed descriptions of some of the comments and EPA's responses to them appear in later sections of this document.

A. Emission-Related Comments

Five automakers (Ford Motor Company (Ford), General Motors Corporation (GM), Toyota Technical Center, U.S.A., Inc. (Toyota), Chrysler Motors Corporation (Chrysler), and Nissan Research and Development Corporation (Nissan)), the Motor Vehicle Manufacturers Association (MVMA), the Association of International Automobile Manufacturers, Inc. (AIAM), and the Manufacturers of Emission Controls Association (MECA) all recommended denial of Ethyl's request and expressed two major concerns with regard to the addition of MMT to unleaded gasoline. First, they noted that the use of MMT will cause an increase in HC emissions. Most indicated that the more stringent emissions standards which begin taking effect in model year 1994 will make any increase in HC emissions particularly troublesome. Further, they stated that newer technology vehicles will likely be equipped with catalysts which are nearer the engine (more "closely coupled"). Such close coupling results in higher catalyst temperatures which, for at least older model vehicles, studies indicate make the catalyst more prone to the deposition of manganese.[28] These commenters stated that deposition of manganese compounds on the surface of the catalyst would impair the catalytic breakdown of emissions from the

[23] For a description of these tests see appendix 2A, Ethyl 1990 Waiver Application. For a description of Ethyl's analysis using these tests, see appendix 11, Ethyl 1990 Waiver Application.

[24] Ethyl 1990 Waiver Application, 57.

[25] Ethyl waiver application (July 12, 1991) at 38.

[26] Refinery severity refers to the temperature and pressure at which certain parts of the refinery are operated. A "reformer", one of many refineries processing units, may be operated at higher temperatures and pressures to produce more high octane components such as benzene, xylene, and toluene, collectively referred to as "aromatics". Since MMT would supply a less expensive source of octane, the presumption is that the refinery would operate at a lower severity, thus using less fuel to operate and producing fewer emissions. Additionally, gasoline produced at a refinery operating at lower severity would presumably contain lower aromatics.

[27] As mentioned previously, the comments received in consideration of Ethyl's 1990 application have been included in the public record for the current 1991 application. This includes all docket materials in docket A–90–16, as well as all testimony at the June 22, 1990 hearing.

[28] Benson, Jack D., "Manganese Fuel Additive (MMT) Can Cause Vehicle Problems," SAE Paper 770655, June 7, 1977.

Furey, Robert L., and Jack C. Summers, "How MMT Causes Plugging of Monolithic Converters," SAE Paper 780004, February 27–March 3, 1978.

engine, thereby decreasing catalyst effectiveness. Additionally, they were concerned that MMT, even at the 1/32 gpg Mn concentration requested, would plug catalysts and thus reduce the surface area of the catalyst which could potentially act to break down emissions from the engine, especially in the case of vehicles operated under driving conditions which result in higher temperatures such as heavy load or high speed. Under such conditions, it was pointed out, the vehicle may be more prone to deposition of manganese.

Most of these commenters cited what they considered to be flaws in the Ethyl test program, especially the fact that Ethyl utilized a fuel to accumulate mileage on its test vehicles (Howell EEE) which, unlike fuels typically used by the driving public and for mileage accumulation when certifying vehicles, did not contain a detergent additive. Since detergents prevent the normal deposition of heavy hydrocarbon deposits in the intake system and combustion chamber of a vehicle that results from burning any gasoline, and since such deposits can increase HC emissions,[29] the automakers felt that these emissions increases may have masked any MMT-induced emissions increases.

Some pointed out that high temperature vehicle operation may increase the risk of manganese deposits and that Ethyl accumulated mileage on its vehicles using a driving regimen that may not be conducive to the building of manganese deposits, since it did not include much driving that would result in high catalytic converter inlet temperatures. (As is discussed in section IV–A of this decision, research suggests that high temperatures may result in higher rates of manganese deposition when MMT-containing gasoline is combusted in a vehicle.)

Several of these commenters also pointed out that Ethyl replaced the fuel injectors on its vehicles after the 50,000 mile point, which may have masked the effect of MMT. The automakers felt that since the fuel injectors had been changed at 50,000 miles, any negative impact on emissions caused by manganese fouling of the injectors would not have been seen by Ethyl.

Two automakers submitted new emissions data on vehicles operating on MMT. Ford submitted data on eight vehicles representing two model groups, four of which accumulated mileage using MMT-containing fuel and four of which were used as "controls" operating on "clear" fuel (fuel not containing MMT). Toyota submitted data on one vehicle which was operated on MMT-containing fuel for 30,000 miles and then, after replacing the catalytic converter and oxygen sensors, operated on clear fuel for 30,000 miles. General Motors submitted data on bench tests [30] of two truck engines. As described in more detail in section VI–A, all of this data suggested that use of MMT may result in hydrocarbon increases greater than those reported by the Ethyl test program and/or catalyst plugging.

The California Air Resources Board (CARB) also recommended denial of the waiver on emission-related grounds. California state law currently bans the use of MMT in unleaded gasoline, and an EPA decision to grant Ethyl's waiver request would not affect that ban. (The California ban, however, does not preclude the possibility that, if the waiver were granted, vehicles exposed to MMT could be used in California since vehicles would be able to utilize MMT-containing fuel in other states and then be driven in California. There is no evidence that any effect due to mileage accumulation using MMT-containing fuel would disappear if clear fuel were used subsequently. In fact, evidence that MMT deposits on catalysts suggests otherwise.)

According to CARB, the increased HC emissions attributable to MMT would make it difficult for vehicles operating on unleaded gasoline containing MMT to meet the new more stringent HC standards recently adopted for California vehicles.[31] CARB urged that testing be conducted to determine the effect of MMT on new technology vehicles designed to meet the more stringent HC standards, such as vehicles with electrically heated catalysts. It also expressed concern that manganese retained in the vehicle's catalyst could impair the performance of the vehicle's catalyst.

Environment Canada, a ministry of the Canadian government, commented on Canada's experience using MMT in unleaded gasoline. (As mentioned previously, MMT is allowed in unleaded gasoline in Canada at twice the level asked for by Ethyl in this current waiver proceeding.) Environment Canada reported that it had little data on MMT effects on Canadian vehicles, but that it appeared that only a relatively small number of catalysts installed on Canadian vehicles had been adversely affected by plugging. It indicated, however, that differences between the Canadian and United States vehicle emission control programs made it less likely that any catalyst plugging would be discerned in Canada than might be the case in the United States.

Ethyl submitted responses to the comments summarized here. It noted that the test cycle which it used was the federal certification mileage accumulation cycle utilized to certify vehicles as meeting standards. Ethyl also criticized the test programs which were used by the automakers to collect data on the emissions-related effects of MMT use. Ethyl pointed out that the programs had little similarity to procedures utilized to certify vehicles as meeting standards. Ethyl stated that, in any event, statistical analyses of its data demonstrated that MMT at the requested concentration would not cause or contribute to failure by vehicles to meet current or future emissions standards. It also submitted, in its comments, additional data on catalysts from Ethyl's test fleet which, according to Ethyl, indicated that catalyst degradation would not occur as a result of MMT use.

In response to the automakers comments regarding Ethyl's replacement of all fuel injectors after 50,000 miles, Ethyl stated that the fuel injectors were changed precisely to determine if use of its test fuel, Howell EEE, resulted in injector fouling since it did not contain a detergent additive. Ethyl indicated that emissions data collected on the vehicles before and after the injector replacements showed no significant emissions changes.

Ethyl also pointed out that, in the area of regulated emissions, once it has presented a prima facie case in support of its application, those opposing the application must present "competent" evidence sufficient to create an issue of fact to be determined by the fact finder.[32] Further, Ethyl stated that the Agency's decision must turn upon what the preponderance of the competent evidence in the record shows. (A more in-depth description of these issues is presented in section VI–A of this decision.)

In response to comments that Ethyl did not use a detergent in its test fuel, Ethyl stated that the purpose of using a mileage accumulation test fuel without a detergent was to provide a worst-case scenario for deposit formation and, thus,

[29] See for example, "Gasoline Additives Solve Injector Deposit Problems", SAE Technical Paper 881537, October 6–9, 1988.

[30] Bench tests here refer to tests on engines which were conducted with the engine removed from the vehicle so as to facilitate the collection of data.

[31] The new California standards are introduced in several stages beginning in 1994, each stage of which establishes a more stringent control over non-methane organic gas (NMOG) which consists of HC and oxygenated hydrocarbons.

[32] Docket A–91–46, Item No. IV–E–5, Attachments.

address the concerns of the auto industry that MMT causes engine deposits which result in emissions increases. (The purpose of detergent additives is to prevent deposit formation.) Also in response to these comments, Ethyl operated six Buicks from its 48-vehicle fleet an additional 15,000 miles (after the original 75,000 miles) with commercial gasoline with MMT (for the MMT vehicles) and without MMT (for the clear fuel vehicles). Emissions tests every 5,000 miles indicated no significant change in emissions patterns from the original 75,000 miles of operation.

In regard to the Canadian experience with MMT, Ethyl pointed out that Canadian oil companies (including government-owned Petro Canada) that have used MMT in unleaded gasoline in the past are unaware of any catalyst problems experienced by customers using gasoline with MMT.

B. Other Comments

Commenters addressed other issues raised by Ethyl's application. Many dealt with the potential effect of MMT on public health. Commenters that supported the application generally pointed to Ethyl's analyses indicating that MMT use would result in an overall reduction of vehicle and refinery emissions. Several stated that MMT use would result in more flexibility for refiners in enhancing gasoline octane quality. Others, however, were troubled by the prospect of allowing MMT on the market before more was known about the health consequences of the manganese emissions that MMT would cause.

The National Institute of Environmental Health Sciences (NIEHS), the Environmental Defense Fund, CARB, and the American Psychological Association, among others, noted that little is known about low-level chronic exposure to airborne manganese. These commenters generally recommended that the Administrator exercise his discretion to deny the waiver request until the completion of studies sufficient to determine a "safe level" of exposure to ambient manganese. (This issue is discussed further in section VI–B of this decision.)

Chemetals, Inc., a manufacturer of manganese alloys, submitted comments stating that manganese is an essential human nutrient and that exposure levels expected to result from MMT use are far below any known toxic levels. Chemetals also strongly indicated its support of the Ethyl application.

In response to these comments, Ethyl pointed out that available data reveal no adverse health effects of exposure to manganese emissions at the levels expected to occur as a result of MMT use in unleaded gasoline. Ethyl also stated that monitoring and modeling data on exposure to manganese which it had submitted demonstrate that no significant difference in exposure would occur as a result of MMT use. It argued that having made a *prime facie* case that MMT would not harm public health, the burden shifted to those commenters who thought otherwise to substantiate their claims.

Comments from refineries and refinery trade associations were supportive of Ethyl's application. They concurred in Ethyl's assessment of the economic benefits and reduced refinery and vehicle emissions that would accrue from the replacement of octane obtained through higher-severity refining with octane obtained from MMT. Several emphasized that MMT would be especially helpful to small refiners since octane enhancement from MMT requires less capital investment than other means of increasing octane. Many refiners also pointed out that refinery operations at lower severity would result in decreased aromatic and benzene emissions from vehicles and increased yield for each barrel of crude oil refined.

VI. Analysis

As indicated in the earlier section describing EPA's method of review, the Agency considers the effect of a fuel on compliance with vehicle emission standards in deciding whether to grant a waiver for the fuel. New data submitted to the Agency indicate that factors other than those taken into account in Ethyl's test program may significantly and adversely influence the emissions caused by the addition of HiTEC 3000 to unleaded gasoline. Hence, the Agency is unable to conclude that Ethyl has established that HiTEC 3000 will not cause or contribute to the failure of a significant number of vehicles to fail emissions standards.

As noted earlier, Ethyl and the commenters also raised issues about the effects of MMT on public health, refineries and crude oil demand. Moreover, since it is expected that, if allowed, the additive would be used very widely in gasoline, the Agency is concerned about the potential for MMT to increase the overall atmospheric loading of HC emissions, given the widespread serious ozone nonattainment problems. Because Ethyl has not met its primary statutory burden, the Agency chose not to base its decision to deny the waiver request on these issues. While EPA believes that the discretionary nature of its waiver authority permits the Agency to consider such issues in making waiver decisions, because the decision is being denied based on increases in HC emissions that cause or contribute to the vehicles failing emissions standards, these other issues need not be resolved. Nevertheless, EPA considers it worthwhile to address these other issues. Decisions on future waiver applications might turn on such issues, and wiaver applicants might benefit from the Agency's consideration of the issues here. These issues are thus addressed in the last subsection of this section.

A. Exhaust Emissions

Ethyl's test program, as noted earlier, was designed and conducted to provide the data necessary to perform the statistical analyses that EPA has previously used to determine whether a waiver applicant has made the statutorily required showing. (These statistical tests, developed in the late 1970's by the Agency, are applicable only to additives which may produce a long-term durability effect on emissions and not an instantaneous effect and, in fact, have only been used previously to evaluate other applications by Ethyl to use MMT.) Assuming the data collected by the Ethyl program are accurate (and the Agency has no reason to believe they are not), EPA agrees with Ethyl that under the conditions simulated by Ethyl's test program, MMT at the requested concentration meets the statistical criteria EPA used in assessing the 1978 Ethyl application to establish that a fuel will not cause or contribute to a failure of a significant number of vehicles to meet current emission standards.

Ethyl's examination of MMT's effect on vehicles' ability to meet future standards for HC, is less convincing, but nevertheless indicates that MMT passes the determinative "cause or contribute" portion of EPA's previously used statistical tests. The approach Ethyl took to its examination—a statistical analysis based on data from 1988 vehicles—has two potential problems. First, it assumes that (1) the emission control systems that manufacturers design and use to meet the new standards will be similar in technology to those used on the models Ethyl selected for testing, and (2) the response of these future systems to MMT is thus appropriately modeled by looking at the test vehicles. Ethyl did not evaluate the extent to which its test fleet was representative of vehicles designed to meet the 1994 model year standards. It

did, however, make an effort to include in its test fleet vehicle models that were equipped or designed in what was thought to be representative of 1994 model year vehicles. Among the forward-looking technologies and designs found in Ethyl test cars were close-coupled catalysts and multiport fuel injection. While EPA is concerned that Ethyl's fleet was not fully representative of 1994 model year vehicles, the Agency appreciates the difficulty of obtaining test vehicles representative of future technology vehicles. Since Ethyl's fleet did contain vehicles that to some extent were representative of 1994 vehicles and the newer technology test vehicles did not show emission problems significantly different from older technology vehicles, EPA believes that the technological problems with Ethyl's future standards case are not significant enough to deny the waiver request on that basis.

Ethyl's case also presents statistical problems. The set of models selected by Ethyl for this analysis is statistically troubling for two reasons. First the set represents only the "cleanest" portion of the fleet—a fleet that has substantial variability in emissions performance. It is not surprising that the lower tail of such a distribution would have very low emissions with or without MMT. The behavior of these vehicles reveals little about the entire distribution and its variability—information that is important to a robust conclusion regarding whether future vehicles will be able to meet the new and tougher standards when operating on MMT.

The second concern about the sample for this analysis is its small size. The sign test, which is the final step in each of the three tests used, requires that at least five models be included in the analysis before it becomes possible for the additive to "fail" any of the three tests. Even with five models, the additive only fails the overall test if all five models fail individually. In most of the comparisons that are made in the course of the analysis, some models drop out for various reasons and leave us looking at samples of four or fewer. Even if each of the four models in such a comparison were to fail the test (which happened in one case), the result would be inability to detect a difference at the 95% confidence level. In short as a result of the data limitations in Ethyl's analysis, it would have been impossible to fail four of the five tests. However, Ethyl's data is sufficient to apply EPA's previously used "cause or contribute" portion of the statistical tests. Application of that portion of the tests to the Ethyl data indicate that MMT would not cause or contribute to vehicles failing the 1994 model year standard. At the same time, however, EPA is troubled about some aspects of the statistical tests (as explained above).

In any event, in regard to both current and future standards, the Agency has reason to believe that for conditions other than those used by Ethyl in its test program, the Ethyl test data may significantly understate the effect of MMT on HC emissions.

Ethyl employed two independent laboratories [33] to test its fleet of 48 model year 1988, light-duty vehicles (i.e., passenger cars), including three pairs of vehicles in each of eight model groups representing a broad spectrum (over 50 percent) of the national 1988 car fleet. After all of the vehicles had accumulated 1000 miles on a clear (i.e., no MMT added) test fuel referred to as "Howell EEE",[34] one vehicle from each pair was operated on the same clear fuel (the control vehicle) and the other vehicle from each pair was switched to a test fuel composed of the clear fuel to which HiTEC 3000 was added at a level of 1/32 gpg Mn (the MMT vehicle).

Each of the vehicles was tested for HC, CO and NO_X exhaust emissions at 1000 miles to establish matched vehicle pairs and then, after switching half the vehicles to MMT-containing fuel, at each 5000-mile interval to 75,000 miles in the case of most vehicle pairs and to 100,000 miles in the case of several. The actual emissions testing at each of the mileage increments was performed using clear fuel for both the control vehicles and the MMT vehicles. This was done so that the effect of accumulating mileage with MMT could be isolated, since past research indicates (and Ethyl agrees) that the emissions effects of MMT results from manganese accumulation over many miles of use, not from the instantaneous effect of adding MMT to the fuel. To accumulate mileage, Ethyl utilized the "Alternative Mileage Accumulation Cycle" (AMA) which is a standard procedure utilized to accumulate mileage for certification purposes.[35]

Ethyl subjected its test data to the statistical analyses used by EPA in its past consideration of a request by Ethyl to use MMT and to further analyses developed by an independent contractor. Based on these analyses, one Ethyl contractor reported the following results: MMT at the requested concentration had a beneficial impact on NOx emissions, reducing them on average by 0.07 gpm for the first 50,000 miles and 0.11 gpm averaged over 75,000 miles. It also had a beneficial impact on CO emissions, reducing them on average by 0.09 gpm for the first 50,000 miles and 0.22 gpm averaged over 75,000 miles. Only in the case of HC emissions did Ethyl's analysis indicate that MMT had any adverse effect: HC emissions were on average 0.018 gpm greater for the MMT vehicles both for the first 50,000 miles and for 75,000 miles.[36]

Ethyl also submitted data on the catalyst efficiency of the vehicles which it tested. Ethyl performed back-pressure tests[37] on all its vehicle fleet except one model group after accumulation of 75,000 miles. Back-pressure tests were also performed on a pair of Ford Crown Victorias, one operated on MMT-fuel and one on clear fuel, at speeds higher than those used in Ethyl's 48-vehicle test program.[38] The results of these tests indicate that back-pressure was not significantly different in the MMT vehicles when compared to the clear fuel vehicles. Ethyl also operated two 5.7 liter Corvettes at extremely high speeds (100 mph) for 25,000 miles, one using MMT fuel and one using clear fuel.

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[33] EPA and Ethyl's contract laboratories performed correlation tests (i.e., tests to measure the variability of emissions results between laboratories) and found the correlation to be good.

[34] Howell EEE is a high-quality gasoline with very tight specification of chemical and physical properties. Ethyl stated that it used Howell EEE in order to minimize base fuel variations over the life of the test program so that MMT-induced changes could be better isolated.

[35] A driving cycle is a description of how to drive a vehicle to accumulate mileage including such things as what percentage of driving should be done at what speed and what the overall average speed should be. The AMA cycle is described in EPA Mobile Source Advisory Circular 37–A, (See Docket A–91–46) and is essentially prescribed for use by manufacturers to accumulate mileage for certification of vehicles (See 40 CFR 86.092–26). A driving cycle is used so that test vehicles accumulate mileage in a manner that is supposedly representative of in-use vehicles. The emissions of a test vehicle that has accumulated mileage according to a driving cycle representative of in-use vehicles are more likely to be representative of in-use vehicles' emissions. There are actually three alternative cycles associated with the AMA; however, the average speeds of the three alternatives are very similar ranging from 29.9 mph to 30.72 mph.

[36] Ethyl 1990 Waiver Application, appendix 2A, pp. D–25 through D–27. (Based on integrated emissions analysis of data set ETHYL4S2.)

[37] Back pressure tests are used to determine if significant plugging has occurred in a vehicle's catalyst. The total pressure ahead of the catalyst is back pressure. This pressure is a measure of constriction in flow through the exhaust system caused by flow of the exhaust through the emissions control system and the noise-reducing components of the vehicle. If plugging has occurred in a vehicle, the total pressure ahead of its catalyst, the back pressure, should be greater than expected (e.g., greater than a matching control vehicle).

[38] In this program the maximum speed was 65 mph for the first 25,000 miles and 80 mph for an additional 10,000 miles.

Although similar in magnitude, the back pressure for the MMT vehicle was slightly higher than that for the clear vehicle. Ethyl also presented catalyst efficiency [39] data based on engine-out emissions of its fleet and based on "slave engine" testing [40] for half of its fleet. Results of the slave engine testing indicated no statistically significant difference between the catalyst efficiencies for the MMT vehicle components when compared with the clear vehicle components. Finally, four Chevrolet Corsicas were operated to 100,000 miles, two utilizing MMT fuel and two clear fuel. The purpose of this testing was to investigate the MMT's effect on the catalyst for a longer mileage interval than the 75,000 miles over which most of Ethyl's fleet was driven. However, these Corsicas were not driven at speeds different from the vehicles in Ethyl's 48-vehicle program. Catalyst efficiencies of the MMT vehicles were not significantly different when compared to the clear fuel vehicles.

As mentioned previously, Ford presented original test data which Ford said supported its contention that actual in-use MMT-induced HC emissions increases are potentially far greater than those reported by Ethyl.[41] Ford conducted testing on a more limited scale utilizing eight vehicles, representing two model groups, run for 105,000 miles. Ford chose two model groups which are representative of its newest technology vehicles. One (the Explorer) represented a technology that Ford believed may be especially prone to exhibit a buildup of manganese, due to significantly higher operating temperatures and loads than those of passenger cars. The other model group, the Escorts, had close coupled catalysts, a design which is being incorporated into many new vehicles in order to meet tighter emissions standards. Like Ethyl, Ford used both vehicles run on clear fuel and vehicles run on fuel containing 1/32 gpg MMT. However, Ford's test program differed from Ethyl's program in several ways. When accumulating mileage, Ford utilized a commercial gasoline which contained all of the additives (detergents, etc.) typically found in such fuels. As mentioned previously, Ethyl utilized a very high quality test fuel with tight specifications and no additives. (Although used for actual emissions testing purposes, Ethyl's fuel would not be allowed for mileage accumulation when certifying vehicles since it is not representative of in-use fuel.) When accumulating mileage, Ford utilized what it called its "durability cycle" which it had previously developed. Compared to the AMA cycle used by Ethyl, Ford's driving cycle has a higher average speed (54 miles per hour (mph) versus 30 mph), and a higher percentage of high speed driving.[41] (As previously mentioned, Ethyl utilized the AMA cycle used for certification purposes.) Additionally, in the Ford program, vehicles were tested for emissions at five mileage intervals (5,000, 20,000, 55,000, 85,000 [43] and 105,000 miles) and six emissions tests were done at each testing interval. Ethyl, by comparison, conducted testing every 5,000 miles to 75,000 miles (15 intervals) and utilized two emissions tests at each interval.[44] Ford's MMT vehicles showed HC emissions 0.12 gpm higher, on average, than the control vehicles (compared with 0.018 gpm seen in the Ethyl program).

Ethyl stated that the Ford results generally reflect the emissions performance of a single test vehicle and that the results are not credible. EPA evaluated the Ford data and has concluded that the Ford HC test data represent a very small set of model groups, only two, that were not selected through a statistical sampling process. Thus, very little can be said in a purely statistical way about the implications that the sample results have for the performance of the vehicle fleet as a whole. The Ford data have, however, been examined on a model-by-model basis to see what they tell us about the likely behavior of vehicles from each of the two model groups.

The Ford Escort data failed three of the five tests performed on them.[45] Data from the Explorer model failed all five tests. Thus the picture that emerges from examining the HC data for these models is one of definite increases associated with MMT in both cases. In one of the two models the increase was not sufficient to cause a failure of the current HC standard by the "cause or contribute" test and one other test. In the other model, the Explorers, the increase brings about an unequivocal failure of the current HC emissions standard.

Ford also exchanged the catalysts and oxygen sensors between each pair of vehicles after 100,000 miles of operation and tested for emissions effects. Generally, for HC emissions, the MMT vehicles performed better with components from the control vehicles and the control vehicles' performance degraded when run with components from the MMT vehicles. (A graphical summary of the results of this "component interchange" data can be seen in appendix 1.) Ford concluded that the data clearly show that MMT impairs to a significant degree the performance of emission control devices.

Toyota also submitted data on a single vehicle which was operated for 30,000 miles on MMT-containing fuel after which the oxygen sensor and catalyst were replaced with new components and then driven on fuel not containing MMT for 30,000 miles. Toyota also used a driving cycle with an average speed (41.7 mph) higher than that used by Ethyl for mileage accumulation and used fuel with what Toyota believed was a relatively high trace level of lead than that usually found in unleaded gasoline (0.0045 gpg lead) and oil with a relatively high phosphorus level (0.13 weight percent). Toyota referred to this test procedure as the "Toyota 9-Laps" and presented evidence which it said suggested that the catalyst degradation seen by vehicles using the Toyota 9-Lap test was very similar to in-use catalysts tested by Toyota. Hence, Toyota suggested, these "adjustments" made in creating the Toyota 9-Lap make the testing of a vehicle more consistent with what would happen in actual in-use driving.

[39] Catalyst efficiency is a measure of what fraction of the emissions entering the catalyst are actually removed (or catalyzed) by the catalyst.

[40] "Slave engine testing" is the testing of vehicle components on a single engine which is not in a vehicle. In this case, catalyst efficiencies between control and MMT vehicles were investigated using exhaust gases from this single engine which were routed through the removed catalysts. This would likely result in a more accurate analysis of catalyst efficiency, since one possible confounding factor, vehicle to vehicle variability, would be eliminated.

[41] EPA's emissions testing lab and Ford's lab routinely undergo correlation testing and the data indicate that correlation is good between the labs. (See memorandum, with attached data, from Martin E. Reineman, EPA Manager of Correlation and Engineering Services, Office of Mobile Sources, January 3, 1992, Docket A-91-46.)

[43] Ford indicated that drives who accumulated mileage in its test program were asked to follow posted speed limits. Ford indicated that the cycle consisted of 5% city driving (25 to 45 mph), 5% gravel or off road driving (25 to 45 mph), 20% rural driving (45 to 55 mph), and 70% highway driving (65 mph). Posted speed limits are shown in parentheses. By way of comparison, the AMA cycle consists of 16.1% of driving at 30 mph, 22.6 at 35 mph, 20.9 at 40 mph, 6.4 at 45 mph, 17% at variable speed and one of the three following options: 16.7% at 50 mph or 16.5% at 55 mph or 8.6% and 7.9% at 55 mph and 70 mph, respectively.

[43] In fact, only two of the four Escorts were tested at 85,000 miles.

[44] Although Ethyl conducted additional emissions tests at some mileage intervals when the initial two tests showed high variation, these additional tests were not used in Ethyl's analysis of its data.

[45] Tests performed on both model groups were: (1) Deterioration factors test, (2) violation mileage test, (3) maximum percentage exceeding the standard test, and (4) "cause or contribute" test. A description of this analysis can be found in a memo to Docket A-91-46 from John Holley, EPA, dated January 7, 1992.

Toyota's data indicated an HC level after the first 30,000 miles of vehicle use (on MMT fuel) about 0.1 gpm higher than the same vehicle after the vehicle was driven for a second 30,000 mile interval with a new catalyst and oxygen sensor. Toyota also submitted data indicating that the efficiency at which the catalyst was operating for the MMT-exposed components was less than that for the non-MMT exposed components.

Ethyl criticized both the Ford data and the Toyota data. Ethyl stated that the Ford "fleet" is not representative of the national fleet in that it contains only two model groups and that half of the vehicles (the Explorers) were "prototype vehicles" unrepresentative of any existing production vehicles. EPA agrees with Ethyl that the Ford test vehicles are not representative of the entire U.S. fleet. As mentioned earlier, the fact that Ford's fleet is not representative is one of the reasons that Ford's data is insufficient to determine, using EPA's past statistical tests, whether MMT will cause or contribute to significant emissions noncompliance. At the same time, the Escort and Explorer represent a significant portion of the vehicle fleet, about four percent of vehicle sales for 1991 in the U.S. [46] More importantly, Ford's data is sufficient to indicate that MMT may affect vehicles more adversely under operating conditions different from those Ethyl used in its test program. The concern that Ford's data raises is not so much that particular models like the Escorts and the Explorers are more sensitive to MMT exposure than others, but that differences in driving cycle or other operating conditions may lead to differences in MMT's emmission effect. If operating conditions are key to MMT's effect, then many, or even most, models may be more seriously affected by MMT than Ethyl's data indicate under certain conditions. As a result, EPA believes Ford's data may be instructive despite the fact that Ford tested only two models.

Ethyl was also concerned that the Explorers which Ford used were "prototypes" unrepresentative of existing production vehicles. Ford has stated that the Explorers tested are different from production vehicles only in their engine design and air pump, which are representative of 1993 model year production engines and air pumps. Moreover, none of the Explorers' emission control related equipment (i.e, catalyst and oxygen sensor) are different from current model vehicles. Based on its knowledge of vehicle design and development, the Agency believes that these vehicles are substantially similar to vehicles which are currently used or will be used in the future. For the reasons given earlier, EPA believes that testing of such prototype vehicles is appropriate because MMT's effect on vehicles' ability to meet the 1994 model year standards is relevant to whether MMT should be granted a waiver.

Ethyl also criticized Ford's component interchange data pointing out that, for at least some of the Ford component interchange data, when the HC emissions increased after putting an MMT-exposed catalyst in a clear vehicle, CO and NO_x emissions did not likewise increase. Ethyl concluded that if "the additive had truly impaired the catalyst, one would expect to see this imparirment reflected for all emissions, not just HC emissions." [47] EPA does not agree. In order to draw this conclusion, one would have to assume that the chemical and physical processes whereby each exhaust species is catalyzed are identical. This is not the case. The catalyst component material which breaks down HC and CO is different than that which breaks down NO_x. Furthermore, the physical and chemical processes involved in catalysis of CO ahd HC, such as surface adsorption are different.[48] Additionally, the complex interactions between these exhaust species, the catalyst amd manganese are not understood. Therefore, it is not possible to conclude that the presence of manganese on the catalyst should effect all species in the same manner. Therefore, the Agency believes that the mere fact that different emissions were affected differently by the appearent catalyst degradation seen by Ford does not, in itself, impugn the Ford data.

Ethyl also stated that vehicle maintenance logs provided by Ford demonstrated inconsistent treatment of its test vehicles. Ethyl indicated that Ford replaced ignition system components and spark plugs apparently using different types of components in different vehicles of the same model type. Concerning these issues, Ford noted that, during the course of the test program, spark plugs slightly different from the initial components were used as replacement parts for some vehicles. Ford stated that the plugs were of the same type and heat range as the initial plugs. The Agency believes that this type of slight variation in plug design would likely not materially effect emissions of the vehicle since the plug was the appropriate application and heat range. As to the ignition system component changes, Ford has stated that these components were materially identical, were of a design which had previously proven their durability and reliability and which would not account for any emission or emission deterioration differences between the vehicles. Hence, the Agency agrees that the change in ignition components that took place would not have affected the emissions differences between the vehicles because the components were, as stated by Ford, materially identical.

Ethyl also stated that Ford's vehicles experienced electronic engine control software problems and that vehicle maintenance logs provided by Ford demonstrated inconsistent treatment of its test vehicles. The software problems to which Ethyl refers are concerned with occurrences in Ford's maintenance logs which indicate that the "check engine light" [49] was illuminated. It its reply comments, Ford indicated that engineering evaluations of the vehicles were conducted after any check light illumination and that these evaluations did not indiciate emissions system malfunctions, but, rather, that the sensing logic or methodologies associated with these devices were shown to be more sensitive than necessary. The Agency believes that, lacking any additional information regarding the emissions/related [50] significance of illumination of these lights, engineering evaluations by Ford that the illumination were due to an overly sensitive logic design are sufficient to reassure the Agency that the illumination of these devices did not indicate emissions problems which should be taken into consideration.

Ethyl also noted that emissions tests were not always conducted by Ford before and after maintenance of its vehicles. Ford has supplied data that indicate that it did conduct emissions tests prior to and after emissions-related maintenance. It would be highly unlikely that non-emissions-related maintenance would have any effect on emissions performance. In fact, the regulations for

[46] Automotive News, December 9, 1991.

[47] Ethyl Comments, November 26, 1991, 21.

[48] Heterogeneous Catalysis: Principle & Applications 2nd ed., G.C. Bond, Clarendon Press, Oxford, 1987.

Heterogeneous Catalysis in Practice, Charles Satterfield, McGraw-Hill, New York, 1980.

[49] These diagnostic lights indicate to the driver (by illumination) that there may be a problem associated with a vehcile component. "Software" or computer directions which are associated with this feature "tell" the light when to illuminate as a result of electronic signals which emanate from various vehicle components.

[50] The Agency has defined emissions-related maintenance at 40 CFR 86.090-25.

certification do not require emissions testing before and after all unscheduled maintenance. Therefore, the Agency believes that testing before and after emissions-related maintenance is sufficient to assure that the breakdown of components within the vehicle did not drive the emissions changes seen by Ford.

Ethyl also pointed out that a "prep" cycle [51] was not conducted by Ford prior to emissions testing. Ford has replied that a prep cycle was conducted just prior to emissions testing of the first of several repeated tests but not before each subsequent test of a series of tests at each mileage interval. The Agency agrees with Ford that an additional prep cycle prior to each repeated test at a single mileage interval would not have significantly altered the results of the emissions tests. In the case of subsequent tests after the initial emissions test (which was itself proceeded by a prep cycle), driving associated with the previous emissions test would ensure that no erratic circumstances had been encountered prior to testing the vehicle. Furthermore, since both clear and MMT vehicles were treated similarly, any difference in emissions between the two would likely not be due to lack of a prep cycle.[52]

Ethyl also argued that the driving cycle used by Ford was not the cycle used for certification testing and, in any event, was not representative of actual in-use driving. The fact that Ford used other than the certification durability cycle is not, by itself, a problem with Ford's test program. The purpose of the certification durability cycle is to represent in-use driving for the purpose of determining whether a production prototype vehicle will meet emissions standards in-use. As a matter of practicality, the Agency has required the use of a specified "average" cycle for mileage accumulation in the certification of vehicles. However, the Agency believes that driving habits, like any human activity, vary over a range. Hence, it is reasonable, when evidence is presented suggesting that a driving cycle outside that used for certification may result in very different effects from use of an additive, that the Agency consider the repercussions of such effects. Furthermore, some automakers, believe that vehicles are subjected to more severe conditions in-use than the certification cycle represents. Since automakers whose vehicles do not comply with standards in-use face recall of their noncomplying vehicles, they have a strong incentive to realistically appraise in-use conditions for their effect on vehicle emissions compliance and to test their cars accordingly. Thus, Ford's use of other than the certification cycle is not necessarily inappropriate.

EPA agrees that the Ford test program used a driving cycle that was not representative of "average" in-use driving. Indeed, the Agency doubts that the Ford cycle is representative of the experience of more than a few in-use vehicles. Notwithstanding this, the Ford program does suggest that, under conditions other than those used in the Ethyl program, vehicles show substantially higher MMT-induced HC emissions increases than those found by Ethyl. Because of the relationship described earlier between high driving speeds, engine temperatures and manganese deposition, EPA believes that the difference in driving cycles between the Ethyl and Ford test programs is the likely reason for at least some of the differences in test results. The Agency believes that the AMA cycle that Ethyl used reflects a mileage accumulation driving cycle that approaches the average; however, available data on driving cycle is inadequate to reliably establish the distribution of driving cycles around the average cycle.[53] In fact, the Agency is currently investigating the driving cycles to which in-use vehicles are subjected as part of its implementation of section 206 of the Act. This data will not be available until the spring of 1992. Since the Agency has only 180 days to consider a waiver application, it was not possible to determine, with reasonable confidence, how many vehicles are subjected to driving cycles "more severe" (i.e., higher speed) than the average or how much more severely those cars are driven. Even if the distribution of driving cycles around the average were known, the Agency does not have enough information to determine how the HC emissions increases seen in the Ethyl program would be affected by driving cycles more severe than the AMA but less severe than Ford's. The only data points it has on the effect of driving cycle on MMT-induced HC increases are those from the Ethyl and Ford test programs. Until additional testing is done using driving cycles intermediate in severity to the Ethyl and Ford cycles, EPA cannot map the shape of the curve defining the relationship between driving cycle and MMT HC effect—it could be linear or there could be a "threshold" point after which MMT's effect does not worsen. Thus, despite the fact that Ford's driving cycle is not representative of in-use driving, its use appears to have confirmed that MMT's effect on HC increases will worsen with more severe driving. Until more is known about in-use vehicles' driving cycles and the effects of those cycles on MMT-induced HC increases, EPA cannot conclude that MMT will not cause or contribute to emissions increases based on the Ethyl data alone. Furthermore, although the Toyota test program design is open to some criticism,[54] the limited data is suggestive of a larger MMT-induced increase in HC emissions especially in light of its similarity to the Ford data.

Ethyl indicated that the high-speed testing which it had performed indicates that no catalyst problems should occur at driving cycles outside of "the average". Catalyst durability tests performed by Ethyl on most of its 48-vehicle fleet as well as on other vehicles which were driven using high-speed or high stress driving cycles were evaluated by EPA. As mentioned previously, these involved back-pressure tests on the 48-vehicle fleet after 75,000 miles, on two Crown Victorias driven at higher speeds for a

[51] A "prep" cycle is the driving of a vehicle for a short distance prior to the actual emissions test to ensure that erratic driving or unusual conditions (e.g., extreme heat or cold) just prior to testing, does not have an undue influence on the emissions test, itself.

[52] See memorandum from Martin E. Reineman, EPA Manager of Correlation and Engineering Services, Office of Mobile Sources, January 3, 1992, Docket A-91-46.

[53] EPA found four data sets concerning in-use driving cycles. Two of them do not provide any information on the distribution of driving cycles around the average. A third set is based on diaries kept by vehicle owners and as such is not as reliable as data based on independently monitored vehicles. The third data set also does not reflect actual speed travelled. The fourth set is based on well-monitored (by instruments inserted in the vehicle) vehicles but is limited to a relatively small number of vehicles in one area of the country over a relatively short period and thus is not broad-based enough to permit generalizing to the rest of the country. Furthermore, it has been suggested that the use of instrument monitored vehicles to study driving habits may skew the results since an operator may drive differently if the operator knows his driving is being constantly monitored. (See "Data from Driving Cycle Studies", EPA submission to Docket A-91-46.)

[54] For example, the use of the same vehicle as a control and an MMT vehicle by Toyota has been criticized as poor program design since any observed MMT-effect could be simply due to variation between the quality of components. (When a separate control and test vehicle is used, this variability can be taken into account.) Toyota believes that since the "control" portion of the test occurred after the vehicle had been exposed to MMT, if anything this would minimize the differences in HC emissions between the MMT and control vehicle.

The addition of slightly higher contamination levels of lead (in the gasoline) and phosphorus (in the motor oil) by Toyota also may have led to increased catalyst degradation.

total of 45,000 miles, and on two Corvettes driven for 25,000 miles at very high speeds. The 48-vehicle fleet data appear to indicate that at higher mileage (75,000 miles) and for the driving conditions under which Ethyl's 48-vehicle fleet was tested (the AMA driving cycle), little or no plugging occurred. The tests on the two Crown Victorias suggest that little plugging occurred up to 45,000 miles at speed despite the fact that the cars were driven more severely than the AMA. The tests on the two Corvettes suggested that, at low mileage (25,000 miles) and very high speeds, some small amount of increased plugging occurred.

EPA does not believe that Ethyl's back-pressure test data establishes that MMT's emissions effect is not worsened by more severe driving. The back-pressure data for vehicles that were subjected to high-speed driving are limited to only four vehicles from two model groups and over a mileage range which is less than the vehicles' useful life. Hence, although the 75,000-mile fleet back-pressure testing indicates little plugging, the data on the potential for high speed driving to increase plugging is too limited to come to a statistically sound conclusion. Furthermore, it is not apparent that plugging of the catalyst is the only mechanism which may result in increased HC emissions or catalyst degradation. In fact, automakers and catalyst manufacturers indicate that the mere presence of manganese on the surface of the catalyst may reduce the number of sites at which emissions may be catalyzed. Hence, back-pressure data do not necessarily prove that substantial degradation has not taken place.

Likewise, the catalyst efficiency data was collected on vehicles which had operated at speeds associated with the AMA driving cycle, and thus no conclusions can be reached regarding catalyst efficiency at higher speed cycles for a representative number of vehicles over the appropriate "useful life" of the vehicles.

As mentioned previously, Environment Canada, in its comments, stated that it had little data on MMT effects on Canadian vehicles, but that it appeared that only a relatively small number of catalysts installed on Canadian vehicles had been adversely affected by plugging. It indicated, however, that difference between the Canadian and United States vehicle emission control programs made it less likely that any catalyst plugging would be discerned in Canada than might be the case in the United States. In light of these comments, EPA did not find Canada's experience instructive.

The Agency believes that without additional investigation as to what parameters alter the effect of MMT on emissions, it is impossible to say precisely why Ford (or Toyota) saw significantly greater emissions increases with MMT use than Ethyl saw. As noted earlier, EPA believes a likely candidate parameter to explain the differences between the Ford and Ethyl results is driving cycle. In the past, the Agency has said that in order to meet the section 211(f)(4) burden, it is reasonable for an applicant to choose a representative subset of the fleet to predict what effect the additive would have on the entire U.S. fleet. Hence, the Agency has always accepted data from test programs which "model" the fleet in support of waiver applications. Nevertheless, if an interested party were to present data that a potentially significant subset of the fleet, not tested by the applicant, was especially susceptible to the negative effects of the additive, it would not be unreasonable for the Agency to require specific testing on representative models of that sub-fleet. Likewise, the Agency in the past has accepted emissions testing based on "average" driving cycles using "average" fuels for additive testing. In this case, however, Ford has presented reasonably reliable data that suggest that MMT may have a significantly different effect on a potentially significant subset of the fleet that operates outside of the "average" based upon factors other than model type (such as driving cycle). Further, Toyota has presented data that, although problematic, is notably similar to the Ford data. In the face of such data, the Agency may reasonably conclude that the waiver applicant has not met its burden of establishing that its additive will not cause or contribute to vehicles' noncompliance with emissions standards and that testing under certain "non-average" conditions is required.

Ethyl has asserted in its application that upon presentation of a *prima facie* case that use of HiTEC 3000 will not cause or contribute to the failure of emission control devices to meet applicable standards, the burden of proof then shifts to others trying to refute or critique that case. EPA does not agree. The statute states that the waiver applicant must establish that the additive does not cause or contribute to any vehicle's failure to meet the emission standards with respect to which it has been certified. Nowhere does it provide that the burden of proof shifts upon an applicant making a *prima facie* case. EPA believes the burden stays with the applicant, which has the financial interest in obtaining the waiver. It would not be reasonable to require other entities without a financial interest in the waiver to expend the kind of resources a waiver applicant must sometimes expend to develop data adequate for use in EPA's statistical tests. It is enough that other interested entities provide reasonably reliable data that raises a substantial doubt that the waiver applicant has failed to make the required showing. The burden is then on the waiver applicant to address the doubt raised by the additional data.

Ethyl also claims that EPA must decide issues of fact in wavier decisions based on the preponderance of the evidence in the record. Section 211(f)(4), however, does not specify this standard of proof. Rather, it provides that the wavier applicant must "establish" that its fuel will not cause or contribute to vehicle emission noncompliance. Where, as here, there is insufficient data to make a determination one way or another on important factual issues, Ethyl may not use a preponderance of evidence test to bootstrap the requisite showing. Until data exist that are adequate to make the relevant determinations with reasonable confidence, Ethyl has not established that MMT will not cause or contribute to emissions noncompliance.

Beyond that, the conclusions to which Ethyl's evidence point do not address the conclusions that result from the Ford evidence. As stated above, the results of the Ford data indicate that factors other than those taken into account in Ethyl's test program may significantly and adversely influence the emissions caused by the addition of HiTEC 3000 to unleaded gasoline.

Ethyl's test data indicate that, when EPA's traditional statistical tests are applied, the 0.018 gpm increase in HC emissions would not cause or contribute to vehicles' failure to meet emissions standards. On this basis, Ethyl claimed that it had made its statutorily required showing. However, Ethyl's data do not address the fact that a potentially significant subset of the fleet may be susceptible to the negative effects of HiTEC 3000. Although the Ford data does not unequivocally demonstrate that HiTEC 3000 does cause or contribute to the failure of vehicles to meet standards, the Ford data show that some factor or combination of factors can cause emissions increases far larger than those observed by Ethyl. Moreover, although it can be hypothesized what these factor(s) may be, the Agency cannot say with any degree of certainty why Ford's

vehicles demonstrated such a different MMT-induced emissions increase. Finally, the uncertainty posed by the possibility of increases higher than those seen by Ethyl is complicated by the fact that, beginning in model year 1994, vehicles must meet new more stringent hydrocarbon emission standards over a longer useful life. (A description of these new more stringent standards can be found in appendix 2.) Thus, any MMT-induced increase in emissions over and above those seen by the Ethyl program would be even more significant in contributing to vehicles to fail standards. Until the factor which caused the differences between the Ford and Ethyl test programs can be isolated and the effect that this parameter may have on MMT-induced emissions changes can be investigated, whether MMT will cause or contribute to vehicles failing to meet emissions standards cannot be determined. Thus, the Agency must deny the application.

b. Other Issues

As mentioned previously in this decision, many commenters expressed concerns about the possible adverse health effects of an increase in airborne manganese. The bulk of these concerns dealt primarily with first, the known sever neurotoxic effect of high-level exposure to manganese through inhalation, and second, with the profound lack of data regarding the chronic effects of low-level inhalation exposure to manganese in humans. It was repeatedly pointed out by commenters that neurotoxic damage could occur prior to the onset of overt symptoms.

Ethyl submitted comments regarding manganese emissions. It is Ethyl's position that the manganese emissions resulting from the use of MMT in unleaded gasoline would be so small as to not materially affect human exposure to airborne manganese. In support of this view, Ethyl submitted analyses in its 1990 application (and subsequent comments) as well as further analyses and data on exposure modeling and monitoring in its 1991 application.

During EPA's consideration of the 1990 Ethyl submission, EPA's Office of Research and Development (ORD) conducted a manganese inhalation risk assessment based on the available data which found that because of "the considerable uncertainties and data gaps in the available information. * * * It is not possible * * * to conclude definitively that the increased use of MMT as a fuel additive will (or will not) increase public health risk." [55] (ORD also investigated potential hazards associated with water contamination resulting from accidental spills or leakages of pure MMT and concluded that while spills or leaks would not pose a human health risk due to groundwater contamination, available data are insufficient to determine whether spills and leaks could affect exposure to benthic organisms.

In order to obtain assistance in describing information needed to improve its manganese health risk assessment (and also to improve its environmental hazard identification of issues associated with MMT itself), EPA, in conjunction with National Institute of Environmental Health Sciences, conducted a Manganese/MMT Conference on March 12–15, 1991. The conference allowed the Agency to solicit scientific information and judgments from invited extramural scientists reflecting a wide range of scientific disciplines. Invited participants included representatives of Ethyl Corporation, the Environmental Defense Fund, the Center for Disease Control, the U.S. Food and Drug Administration and Environment Canada. A summary of the workshop discussion was provided to each participant. The information obtained in that meeting was also used by ORD to prepare a prioritized list of needed research for improving its manganese inhalation risk assessment. EPA currently is evaluating ORD's recommendations. Because the data needed are unavailable to make a reasonable judgment as to MMT's manganese health effects, this issue remains unresolved.

In addition, the Agency is concerned about possible additional atmospheric loading associated with widespread use of MMT in light of the serious ozone nonattainment problem in the U.S. As mentioned earlier, in 1990 there were still 98 areas, containing 135 million people, that violated the ambient ozone standard. The magnitude of the hydrocarbon increase associated with the use of MMT is an environment concern because hydrocarbons plays a key role in the information of ozone or urban smog and in secondary formation of particulate matter.

Using the HC increase shown by the Ethyl fleet (0.018 gpm) for 1981 and later model vehicles and a HC increase of 0.09 for pre-1981 model vehicles,[56] EPA estimates, prior to 1995 [57] that with an 84 percent market penetration for HiTEC 3000,[58] HC increases for the entire nation could be approximately 48,000 tons per year.[59] In comparison, the estimated HC reductions associated with full implementation of the Tier I standards for passenger cars and light-duty trucks prescribed under the new Clean Air Act is expected to be 193,600 tpy when fully implemented in the year 2010.[60]

Ethyl argues that the MMT-induced HC increases observed in its test fleet are mitigated by other claimed benefits. First, "real world" HC emissions will be less since the replacement of aromatic octane enhancers by MMT will offset the HC increase and result in less reactive emissions. Second, MMT use will actually result in decreases in NOX, CO, benzene and formaldehyde emissions. Finally, refinery emissions will decrease and crude oil savings will be realized.

EPA is still evaluating the validity of Ethyl's arguments and their impact on total atmospheric loading and, as such the Agency has chosen not to base its decision, in whole or part, on this issue.

VII. Findings and Conclusions

As discussed in section VI above, data submitted to the Agency by Ford indicate that the amount of HC increase

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[55] See "Comments on the use of Methylcyclopentadienyl Manganese Tricarbonyl in Unleaded Gasoline", Docket A–90–16.

[56] This 0.09 gpm increase is based on the Coordinating Research Council study of MMT (Benson, J.D., and R.J. Campion and L.J. Painter. "Results of Coordinating Research Council MMT Field Test Program", SAE Paper 790706, June 11–15, 1979, p.8.). Using Mobile 4.1 data for 1992, almost 14 percent of the gasoline vehicle miles traveled (VMT) were pre-1981 model vehicles.

[57] In 1995, section 211(k) of the Act requires that reformulated gasoline be sold in at least the nine worst ozone nonattainment areas in the country. This provision provides for a ban on fuels containing heavy metals like Mn unless waived. It is premature to preduct whether such a waiver would be granted and the extent to which, if granted, refiners might need to compensate in other ways for any HC increases due to MMT use.

[58] Sobotka, Inc., an EPA contractor investigated the likely market penetration which would be achieved by HiTEC 3000 nationwide. For an all-conventional gasoline scenario (i.e., prior to the introduction of reformulated gasoline), Sobotka estimated that 84% of U.S. gasoline would likely utilize HiTEC 3000. (See Memo from Sobotka, Inc., dated January 7, 1992 in Docket A–91–46.)

[59] This estimate is based on a yearly U.S. gasoline consumption of 110 billion gallons (DOE/EIA Petroleum Supply Monthly, November 1991, Table 5, p. 37) and an average nationwide fuel economy of 19.1 miles per gallon (USEPA Mobile 4.1 Motor Fuel Consumption Model, 1991). California, which represents about 12 percent of U.S. consumption was excluded from this nationwide figure because it has a statewide statutory prohibition of manganese-containing gasoline additives.

[60] "Ozone Nonattainment Analysis Clean Air Amendments of 1990" (September, 1991), a draft report prepared for EPA by E.H. Pechan & Associates, Inc., pp. 7 & 9. The tonnage figures were reduced by 12% to remove California tonnage and make the figures comparable to MMT increases.

resulting from the use of HiTEC 3000 in gasoline may significantly depend upon factors other than those considered by Ethyl. The Agency cannot determine what other factors resulted in the large HC increases observed by Ford. Therefore, until the factor or factors which resulted in these differences can be isolated and the effect that these parameters may have on MMT-induced emissions changes can be investigated, the Agency must conclude that the record does not adequately show that vehicles will not fail standards as a result of using MMT-containing fuel under diverse operating conditions. Therefore the applicant has not met the statutory burden required by the Act and the request for a waiver is hereby denied.

Finally, EPA acknowledges the broad scope and generally high quality of the testing program carried out by Ethyl. However, the core of the Agency's dilemma, and the root of its decision to deny the waiver request by Ethyl, is the Agency's inability to reconcile the results of the vehicle testing done by Ford and Ethyl. The Agency believes that it may be possible to design a test program aimed at reconciling these differences. We would be willing to work with Ethyl and representatives of motor vehicle manufacturers to explore means of promptly developing such additional data.

EPA has determined that this action does not meet any of the criteria for classification as a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required. This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because EPA has not published, and is not required to publish, a Notice of Proposed Rulemaking under the Administrative Procedure Act, 5 U.S.C. 553(b), or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small entities.

This is a final Agency action of national applicability. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(1) of the Act, judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of January 22, 1992. Under section 307(b)(2) of the Act, today's action may not be challenged later in a separate judicial proceeding brought by the Agency to enforce the statutory prohibitions.

Dated January 8, 1992.

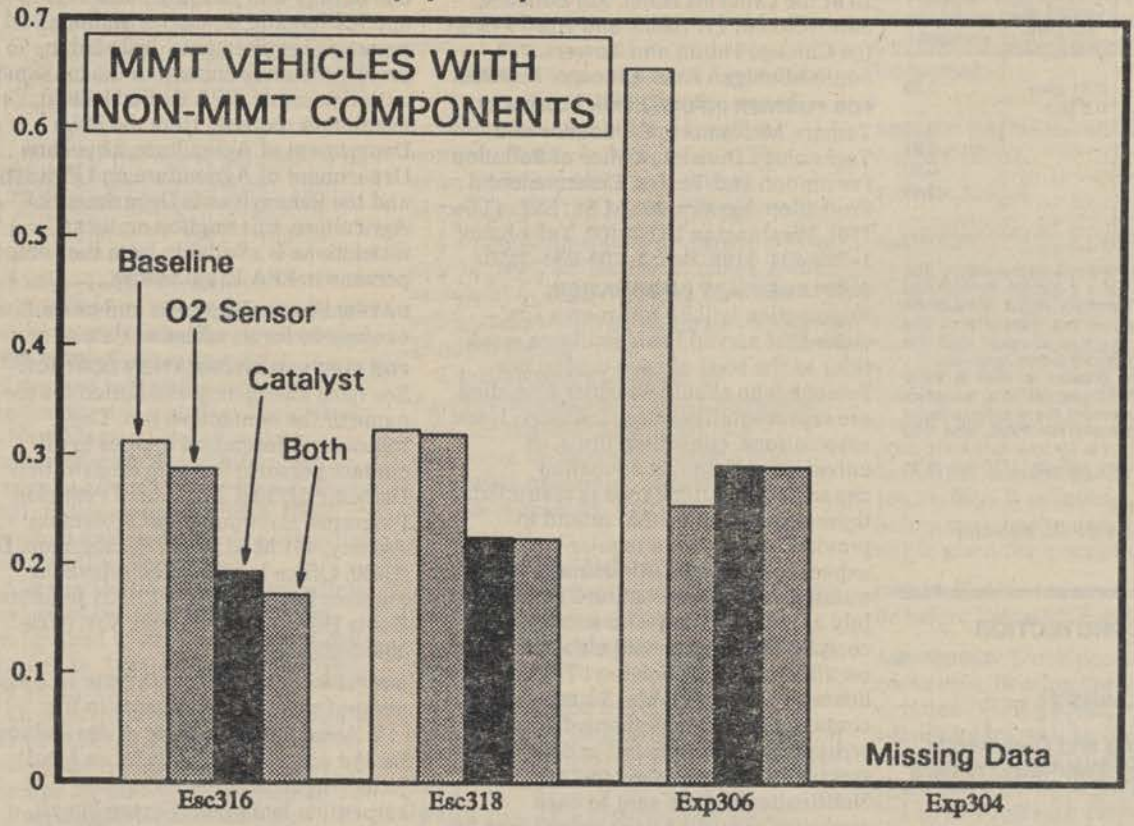
William K. Reilly,

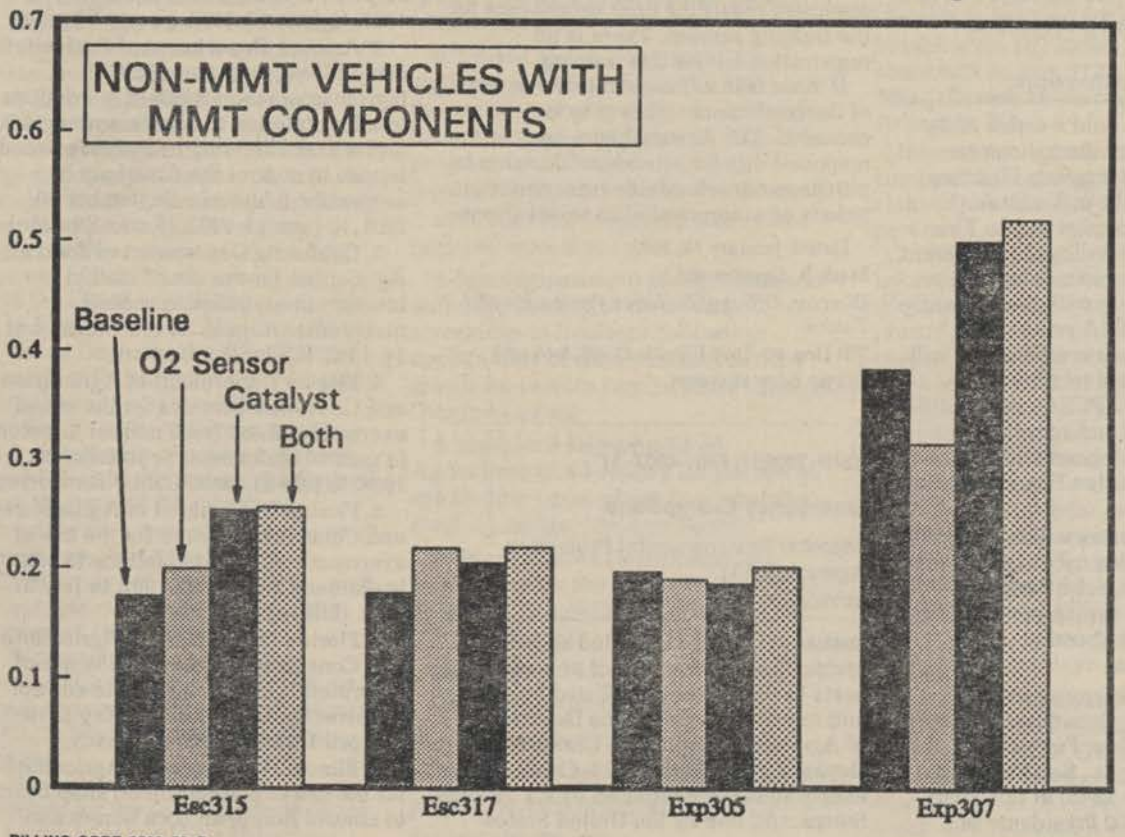
Administrator.

BILLING CODE 6560-50-M

Appendix 1: FORD EMISSIONS DATA: COMPONENT CHANGES

Tailpipe Hydrocarbons





BILLING CODE 6560-50-C

APPENDIX 2.—CURRENT AND FUTURE HYDROCARBON STANDARDS

Vehicle type	Current HC standard	Future NMHC [1] standard [2]
LDV [3] 5 year/50K	0.41 gpm	0.25
LDT 11 year/120K	0.8 gpm	
LDT 5 year/50K		0.25
LDV/LDT 10 year/100K		0.31
LDT>3750 lbs (5/50K)		0.32
LDT>3750 lbs (10/100K).		0.40

Notes:
[1] NMHC refers to non-methane hydrocarbon. The new standard is based upon a subset of the total hydrocarbons emitted. Therefore, direct comparison with the current standard is not appropriate. The new standard, however, is more stringent than the old standard in consistent hydrocarbon species.
[2] Future standards are phased in over a three year period during which 40 percent of a manufacturer's sales volumes must meet these standards for model year 1994, 80 percent for 1995, and 100 percent after 1995.
[3] LDV refers to light duty vehicle. LDT refers to light duty truck.

[FR Doc. 92-1187 Filed 1-21-92; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-400061; FRL-4043-2]

Emergency Planning and Community Right-To-Know Act; Train-the-Trainers Workshops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of conferences.

SUMMARY: EPA will hold a series of 3-day train-the-trainers workshops on section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) reporting requirements. The purpose of these workshops is to present a model course to persons who plan to train others to comply with the reporting requirements of EPCRA section 313. Additionally, this year's workshops will address in detail the new reporting requirements under EPCRA section 313 on source reduction and recycling activities which have been added pursuant to the Pollution Prevention Act of 1990.

DATES: The conferences will held on the following dates: February 4–6, February 18–20, March 3–5, March 17–19, and April 7–9, 1992. The meetings will start each day at 9 a.m. and end at approximately 5 p.m.

ADDRESSES: The conferences will be held at the following locations: February 4–6, at the Holiday Inn, Financial District, 750 Kearny St., San Francisco, CA 94108; February 18–20 at the Hyatt Regency Reston, 1800 Presidents St., Reston VA 22090; March 3–5, and the Stouffers Orlando Resort, 6677 Sea Harbor Dr., Orlando, Florida; March 17–19 at the Crockett Hotel, 320 Bonham, San Antonio, TX 78205; and April 7–9, at the Chicago Hilton and Towers, 720 South Michigan Ave., Chicago, IL 60605.

FOR FURTHER INFORMATION CONTACT: Tamara McNamara, Economics and Technology Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., (TS-779), Washington DC 20460, Telephone: 1-703-934-3195, Fax: 1-703-934-3156.

SUPPLEMENTARY INFORMATION: Registration will be taken on a first-come-first served basis until one week prior to the start of each conference. Persons who should consider attending are representatives from industry, trade associations, consulting firms, or university continuing education departments. Attendance is restricted to those organizations that intend to provide training on a regular basis and expect to conduct a minimum of two training courses on section 313 prior to July 1, 1992. Persons who successfully complete the course will obtain a certification of proficiency. There is limited space available. To register, contact either by telephone, fax, or in writing, the person listed under **FOR FURTHER INFORMATION CONTACT.** Notification will be sent to each applicant regarding their acceptance for the training session. There is no registration fee for this training.

If there is insufficient interest in any of the conferences, they may be canceled. The Agency bears no responsibility for attendees' decision to purchase nonrefundable transportation tickets or accommodation reservations.

Dated: January 13, 1992.

Mark A. Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-1534 Filed 1-21-92; 8:45 am]
BILLING CODE 6560-50-F

[OPP-180857; FRL-4007-1]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 12 States as listed below, and one to the Puerto Rico Department of Agriculture and to the United States Department of Agriculture. Crisis exemptions were initiated by six various States, and one by the United States Department of Agriculture. These exemptions, issued during the months of August and September, except for the one in May and July, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA denied specific exemption requests from the Iowa Department of Agriculture, Louisiana Department of Agriculture and Forestry, and the Pennsylvania Department of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-305-5806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture for the use of avermectin B_1 on head lettuce to control the American serpentine leafminer; September 10, 1991, to June 15, 1992. (Susan Stanton)

2. Arizona Department of Agriculture is modifying the trigard 75W (cyromazine) crop rotation restrictions to allow rotation to alfalfa, sudangrass, and wheat following treatment of head lettuce to control the American serpentine leafminer; September 10, 1991, to June 15, 1992. (Susan Stanton)

3. California Department of Food and Agriculture for the use of methyl bromide on potatoes to control nematodes; August 15, 1991, to August 14, 1992. (Libby Pemberton)

4. Florida Department of Agriculture and Consumer Services for the use of avermectin B_1 on fresh market tomatoes to control leafminers; September 20, 1991, to July 31, 1992. (Libby Pemberton)

5. Florida Department of Agriculture and Consumer Services for the use of avermectin B_1 on head lettuce to control leafminers; August 26, 1991, to July 31, 1992. (Libby Pemberton)

6. Florida Department of Agriculture and Consumer Services for the use of fenprofenthrin on tomatoes to control the sweet potato whitefly; May 8, 1991, to April 1, 1992. (Andrea Beard)

7. Illinois Department of Agriculture for the use of permethrin on snap beans to control European corn borers and

corn earworm; August 16, 1991, to December 31, 1991. (Andrea Beard)

8. Kansas State Plant Board for the use of bifenthrin on field corn to control two-spotted spider mites; August 26, 1991, to September 15, 1991. Kansas had initiated a crisis exemption for this use. (Jim Tompkins)

9. Minnesota Department of Agriculture for the use of permethrin on snap beans to control European corn borer and corn earworm; August 16, 1991, to December 31, 1991. (Andrea Beard)

10. Nebraska Department of Agriculture for the use of bifenthrin on field corn to control spider mites; August 26, 1991, to September 15, 1991. Nebraska had initiated a crisis exemption for this use. (Jim Tompkins)

11. New Mexico Department of Agriculture for the use of bifenthrin on field corn to control spider mites; August 26, 1991, to September 15, 1991. New Mexico had initiated a crisis exemption for this use. (Jim Tompkins)

12. Oregon Department of Agriculture for the use of oxyfluorfen on grasses grown for seed to control various weeds; September 18, 1991, to January 15, 1992. (Libby Pemberton)

13. Oregon Department of Agriculture for the use of bifenthrin on potatoes to control spider mites; August 29, 1991, to September 30, 1991. (Jim Tompkins)

14. Puerto Rico Department of Agriculture for the use of esfenvalerate on pineapples to control Batrachedra comosae moth; August 26, 1991, to August 25, 1992. (Libby Pemberton)

15. Texas Department of Agriculture for the use of bifenthrin on field corn to control spider mites; August 26, 1991, to September 15, 1991. Texas had initiated a crisis for this use. (Jim Tompkins)

16. Texas Department of Agriculture for the use of linuron on parsley to control broadleaf weeds; September 18, 1991, to March 31, 1992. (Jim Tompkins)

17. Texas Department of Agriculture for the use of fenpropathrin on tomatoes to control sweet potato whitefly; September 27, 1991, to September 26, 1992. A solicitation of public comment was published in the Federal Register of August 30, 1991 (56 FR 43022); no comments were received. An emergency situation appeared to exist. The proposed use is not expected to pose an unacceptable risk to the public or the environment. (Jim Tompkins)

18. Washington Department of Agriculture for the use of bifenthrin on potatoes to control spider mites; August 29, 1991, to September 30, 1991. (Jim Tompkins)

19. Wisconsin Department of Agriculture for the use of permethrin on snap beans to control European corn borer and corn earworm; August 16, 1991, to December 31, 1991. (Andrea Beard)

Crisis exemptions were initiated by the:

1. Georgia Department of Agriculture on September 17, 1991, for the use of iprodione on canola (rape) seed to control *alternaria brassicicola*. This program is expected to last until December 31, 1991. (Libby Pemberton)

2. Idaho Department of Agriculture on July 10, 1991, for the use of chlorpyrifos on wheat to control orange blossom wheat midge. This program has ended. (Andrea Beard)

3. Louisiana Department of Agriculture and Forestry on August 16, 1991, for the use of cyfluthrin on sugarcane to control sugarcane borer. This crisis exemption was revoked by EPA on August 23, 1991. (Libby Pemberton)

4. Mississippi Department of Agriculture on September 3, 1991, for the use of paraquat on field corn as a desiccant. This program has ended. (Jim Tompkins)

5. New Mexico Department of Agriculture on September 3, 1991, for the use of cyhalothrin on sorghum to control fall armyworm and the sorghum headworm. This program has ended. (Andrea Beard)

6. United States Department of Agriculture on September 23, 1991, for the use of methyl bromide on asparagus to control foreign plant pests. This program is expected to last until September 22, 1994. (Libby Pemberton)

EPA has denied specific exemption requests from the:

1. Iowa Department of Agriculture to authorize feeding of corn seed screenings to livestock following applications of chlorothalonil to corn grown for seed to control foliar diseases. (Susan Stanton)

2. Louisiana Department of Agriculture and Forestry for the use of cyhalothrin on sorghum to control the sorghum midge. (Andrea Beard).

3. Pennsylvania Department of Agriculture for the use of imazethapyr on alfalfa to control broadleaf weeds. (Andrea Beard)

Authority: 7 U.S.C. 136.

Dated: December 27, 1991.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92-1530 Filed 1-21-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180859; FRL 4042-4]

Receipt of Application for Emergency Exemption to use Hydrogen Cyanimide; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Georgia Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide hydrogen cyanimide (CAS 420-04-2) on up to 5,000 acres of peach trees as a growth regulator, to break peach tree dormancy. The Applicant proposes the use of a new chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before February 6, 1992.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180859," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone

number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–7890).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of Dormex on peach trees as a growth regulator to break the trees' dormancy period. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that a serious situation could be developing in Georgia, due to the unusually warm winter temperatures, which are likely to result in inadequate chilling hours required to break peach dormancy. Each peach variety requires a certain number of "chilling hours" (hours below 45°F) during the winter to resume normal growth in the spring. Insufficient chilling results in lack of leaves, and fruit abortion. Peach varieties grown in Georgia require anywhere from 400 up to 1,050 chill hours to break their dormancy period. The applicant claims that peaches that are as little as 100 hours short on their chilling hours will have yields reduced by one-half or more. If they are 200 hours short of their chilling requirement, a total crop failure often results. Trees which are 200 hours or more short on chilling requirement frequently have major limbs die and produce a reduced crop the following year.

The National Weather Service is predicting warmer than normal temperatures for Georgia for the November-January period. For example, on November 20, 1991, the high temperature was 81°F. February 15th is considered the cut-off date for peach chilling accumulation, and the Applicant fears that a crisis situation may be developing.

The Applicant states that in a severe low chilling year (such as occurred in 1973-74), production fell to one-third of normal. It is estimated that in a moderately low chilling winter, about 25 percent of the peach trees in the state of Georgia would suffer from lack of chilling. Based on the farm gate value for peaches in 1990 of $36.7 million, a 25 percent loss in production would represent a dollar loss of up to $9.2 million for Georgia peach growers.

The Applicant plans to treat up to 5,000 acres using up to 7,500 gallons of product (3,675 gallons active ingredient). A single application would be applied (if conditions warrant) during mid-winter (usually late January - first week in February) in south and middle Georgia, 4-6 weeks before normal bud break. A 0.5 to 1.5 percent Dormex plus 0.25 percent non-ionic surfactant solution will be prepared in water to make 100 gallons of spray solution. Fifty to 100 gallons of finished spray per mature acre would be applied using an air blast sprayer or handgun.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Georgia Department of Agriculture.

Dated: January 10, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–1533 Filed 1–21–92; 8:45 am]
BILLING CODE 6560–50–F

[PF–559; FRL–4010–4]

E.I. DuPont de Nemours & Co.; Notice of Amended Pesticide Petition for Hexazinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from E.I. DuPont de Nemours & Co. the filing of an amendment to pesticide petition (PP) 1F3967 proposing to establish a tolerance of 10 parts per million (ppm) for the residues of the herbicide hexazinone and its metabolites in or on pasture and rangeland hay.

ADDRESSES: By mail, submit written comments identified by the document control number, (PF–559), to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM–23), Registration Division (H–7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–7830.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from E.I. DuPont de Nemours & Co., Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880–0038, an amendment to the notice of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for pesticide petition (PP) 1F3967 that appeared in the **Federal Register** of May 1, 1991 (56 FR 19997) and proposed to amend 40 CFR 180.396 to establish a tolerance of 30.0 parts per million (ppm) for residues of the herbicide hexazinone (3-cyclohexyl-6-dimethylamino-1-methyl-1,3,5-triazine-2-4(1H,3H)-dione) in or on pasture and rangeland hay. The petitioner has requested that the petition be amended to revise the tolerance for hexazinone and its metabolites in or on pasture and rangeland hay at 10 ppm. The analytical method for determining residues is nitrogen-selective gas chromatography.

Authority: 21 U.S.C. 346a and 348.

Dated: January 12, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–1532 Filed 1–21–92; 8:45 am]
BILLING CODE 6560–50–F

[OPPTS-59930; FRL 4044-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 3 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-82, January 23, 1992.
Y 92-83, January 26, 1992.
Y 92-84, January 27, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-82

Manufacturer. Confidential.

Chemical. (G) Modified polyethylene glycol.

Use/Production. (G) Thickner for water based systems. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 8 g/kg species (rat). Eye irritation: moderate species (rabbit). Skin irritation: moderate species (rabbit).

Y 92-83

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Polymer from aromatic amine maleimide and a vinyl comonomer.

Use/Production. (G) Coating resin. Prod. range: Confidential.

Y 92-84

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Coating for an open, nondispersive use. Prod. range: Confidential.

Dated: January 15, 1992.

Ruby N. Boyd,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-1531 Filed 1-21-92; 8:45 am]
BILLING CODE 6560-50-F

[FRL-4094-81]

Massachusetts Marine Sanitation Device Standard for Coastal Waters of Wareham; Determination

On November 14, 1991, notice was published that the State of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the coastal waters of the Town of Wareham, County of Plymouth, within the State of Massachusetts (56 FR 57891). The petition was filed pursuant to section 312(f)(3) of Public Law 92-500 as amended by Public Law 95-217 and Public Law 100-4.

Section 312(f)(3) states:

> After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to me by the State of Massachusetts certified that there are seven pump-out facilities available to service vessels in Wareham coastal waters.

Pump-out facility No. 1 is located at Bevan's Marina, near the head of Buttermilk Bay. Service is limited to vessels less than seven feet in height because of two bridges crossing the mouth of the Bay. This facility is open from 8: a.m. to 5:p.m., seven days a week, and has a $5.00 fee per pump-out.

Pump-out facility No. 2 is located at Onset Bay Marine, on the northern shore of Onset Bay, and will acccommodate vessels with a draft of six feet. This facility is open from 7:30 a.m. to 6 p.m. Sunday through Friday, and 7:30 a.m. to 7 p.m. on Saturday. There is a $5.00 fee per pump-out with a resident sticker or purchase of $10.00 or more at the marina store, or $15.00 fee per pump-out without those conditions.

Pump-out facility No. 3 is located at the Point Independence Yacht Club, on the northern shore of Onset Bay, and will accommodate vessels with a draft of six feet. This facility is open from 9 a.m. to 5 p.m., seven days a week, and there is no charge per pump-out.

Pump-out facility No. 4 is located at Stonebridge Marina, on the northern shore of Onset Bay. Stonebridge Marina is located on East Avenue and the East River, just north of the Onset Avenue Bridge. The height of the bridge, 11 feet at low tide, prohibits some boats from using this marina. This facility is open from 9 a.m. to 7 p.m., seven days a week, and there is no charge per pump-out.

Pump-out facility No. 5 is located at the Onset Town Pier, on the northern shore of Onset Bay near the mouth of Sunset Cove, and will accommodate vessels with a draft of 16 feet. This facility is open from 8 a.m. to 4 p.m., seven days a week, and is free to the public.

Pump-out facility No. 6 is located at Warr's Marine, on the Wareham River, and can accommodate vessels with a draft of 6 feet. This facility is open from 8 a.m. to 4 p.m., and charges a $10.00 fee per pump-out.

Pump-out facility No. 7 is located at the Wareham Boat Yard, on the Weweantic River. The Wareham Boat Yard is located on Rose Point Avenue north of the Route 6 bridge. The bridge, which has a clearance of 5 feet, and the 4 foot water depth prohibit larger boats from accessing the marina. This facility is open from 9 a.m. to 5 p.m., seven days a week, and there is no charge per pump-out.

All pump-out facilities are tied into the municipal sewage system with the exception of Bevan's Marine, which is scheduled to be connected by Spring, 1992, and the Wareham Boat yard, which treats its pump-out waste in an on-site septic system and which services primarily small vessels without MSDs. The Wareham Water Pollution Control Facility is located on Route 6, and discharges to the Agawam River. This

facility, which was built in the early 1970s, provides secondary treatment and has consistently met EPA and Massachusetts Department of Environmental Protection effluent discharge standards.

Annual vessel usage of Wareham coastal waters consists of approximately 1300 vessels, including 15 commercial and 200 transient recreational vessels. None of these vessels will be excluded from using one or more of the existing pump-out facilities. More accurate data on the type and number of boats, and type and number of MSDs used, will be collected during mooring registration for the 1992 boating season.

There were no comments received by the Agency on the merits of the petition prior to the deadline for receipt of comments as stated in the November 14, 1991 **Federal Register** "Receipt of Petition" notice.

Based on an examination of the petition and its supporting information, which included a site visit by EPA Region I staff, and the fact that the Agency recieved no comments concerning the petition, I have determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the coastal waters of Wareham, within the State of Massachusetts. This determination is made pursuant to section 312(f)(3) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4.

Dated: January 10, 1992.

Julie Belaga,

Regional Administrator.

[FR Doc. 92–1528 Filed 1–21–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Peter Deilmann Reederei, Am Hafensteig 19, 2430 Neustadt in Holstein, Germany.
Vessel: BERLIN

Dated: January 16, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–1496 Filed 1–21–92; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Royal Cruise Line Limited and Kloster Cruise Limited
One Maritime Plaza, Suite 1400
San Francisco, CA 94111
Vessel: Royal Odyssey

Dated: January 15, 1992

Joseph C. Polking,

Secretary.

[FR Doc. 92–1470 Filed 1–21–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3357]

Reproductive Genetics In Vitro, P.C., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a provider of infertility services and its president from making false and unsubstantiated claims regarding the success of their in vitro fertilization program.

DATES: Complaint and Order issued December 23, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Walter Gross or Michael Katz, FTC/H–200, Washington, DC 20580. (202) 326–3319 or 326–3123.

SUPPLEMENTARY INFORMATION: On Wednesday, October 16, 1991, there was published in the **Federal Register**, 56 FR 51901, a proposed consent agreement with analysis In the Matter of Reproductive Genetics In Vitro, P.C., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Donald S. Clark,

Secretary.

[FR Doc. 92–1526 Filed 1–21–92; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[Dkt. C–3353]

Spanish Telemarketing Industries, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, three California telemarketing companies and an individual, that produce Spanish-language television advertisements for a weight loss product, from representing that any weight control food, drug, product, device, or service causes weight loss without increased physical activity and/or decreased caloric intake.

DATES: Complaint and Order issued December 20, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Sylvia Kundig, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA 94103. (415) 744–7920.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On Wednesday, October 16, 1991, there was published in the **Federal Register**, 56 FR 51903, a proposed consent agreement with analysis in the Matter of Spanish Telemarketing Industries, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52.

Donald S. Clark,

Secretary.

[FR Doc. 92-1525 Filed 1-21-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Advisory Committee Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following advisory committees scheduled to meet during the month of February 1992:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: February 5-7, 1992, 8 a.m.

Place: Holiday Inn—Chevy Chase, Chase Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland. Open February 5, 1 p.m. to 2 p.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access, effectiveness and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on February 5 from 1 p.m. to 2 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, Appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227-8449.

Name: Health Care Technology Study Section.

Date and Time: February 10-12, 1992, 8 a.m.

Place: Marriott Residence Inn, Montgomery II Room, 7335 Wisconsin Avenue, Bethesda, MD. Open February 10, 8 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the utilization and effects of health care technologies and procedures as well as applications in the area of information and decision sciences relating to health care delivery.

Agenda: The open session on February 10 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications emphasizing medical care technologies and procedures, and relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, Appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Alan E. Mayers, Ph.D., Agency for Health Care Policy and Research, Suite #602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227-8449.

Name: Health Services Research Review Subcommittee.

Date and Time: February 20-21, 1992, 8:30 a.m.

Place: Marriott Residence Inn, Calvert I Conference Room, 7335 Wisconsin Avenue, Bethesda, Maryland. Open February 20, 8:30 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on February 20 from 8:30 AM to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Patricia G. Thompson, Ph.D., Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227-8449.

Name: Health Services Research Dissemination and User Liaison Advisory Committee

Date and Time: February 25-26, 1992, 8 a.m.

Place: Residence Inn, Montgomery II, 7335 Wisconsin Avenue, Bethesda, Maryland. Open February 25, 8 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with the review of and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and AHCPR liaison with health care policy makers, providers, and consumers.

Agenda: The open session of the meeting on February 25 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed portions of the meeting, the Committee will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227-8449.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: January 15, 1992.

J. Jarrett Clinton, MD,

Administrator.

[FR Doc. 92-1497 Filed 1-21-92; 8:45 am]

BILLING CODE 4160-90-M

Centers for Disease Control

[Announcement Number 210]

Availability of Fiscal Year 1992 Funds for STD Professional Education in Computer-Based Clinic Quality Assurance Systems

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of cooperative agreement funds to design, develop, and implement or improve computer-based medical record systems to enhance training at the Sexually Transmitted Diseases (STD) Prevention/Training (P/T) Centers.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of HIV Infection and Sexually Transmitted Diseases. (For ordering a copy of Healthy People 2000, see the section Where To Obtain Additional Information.)

Authority

This program is authorized under the Public Health Service Act: Section 318 [42 U.S.C. 247c], as amended. Regulations governing Grants and Cooperative Agreements for STD Research, Demonstrations, and Public and Professional Education are codified in part 51b, subparts A and F of title 42, Code of Federal Regulations.

Eligible Applicants

Eligible applicants are the current recipients of STD Prevention/Training Center grant funds. Eligibility is limited to these organizations since they currently provide (1) specialized courses for STD clinicians to improve their examination skills according to CDC curricula and (2) a "model" clinic environment according to published CDC standards. (These eligible recipients are located in San Juan, Puerto Rico; Chicago, Illinois; Cincinnati, Ohio; Baltimore, Maryland; Denver, Colorado; Newark, New Jersey; Seattle, Washington; Birmingham, Alabama; Dallas, Texas; San Francisco, California; and Long Beach, California.)

Availability of Funds

Approximately $500,000 is available in Fiscal Year 1992 to fund approximately two to three awards for a 12-month budget period within a 1 year project period. Awards will range from $100,000 to $250,000 with an average award of $200,000. Awards are expected to be made on or about June 1, 1992. Funding estimates outlined above may vary and are subject to change. Recipients must provide support to maintain the computer-based medical record system in subsequent years.

Use of Funds

Funds may be used to support software development and necessary equipment. Funds may not be used to lease space, or for equipment or services that do not directly relate to this project. Unless specifically approved, funds may not be used for substantial renovation of space. Funds shall be used to supplement and not supplant the non-Federal funds that would otherwise be made available for a computer-based medical records system.

Program Requirements

In conducting activities to achieve the purpose of the program, the recipient shall be responsible for conducting activities under A., and the Centers for Disease Control for the activities under B., below:

A. Recipient Activities

1. Identify an individual with appropriate experience and credentials (computer coordinator) within the health department who has primary responsibility and authority necessary to conduct this project, including the ability to communicate with clinical staff and understand the needs of the clinic and the training application of the project.

2. Maintain liaison with state and local STD and HIV prevention program managers regarding disease morbidity reporting and future data linkages.

3. Maintain liaison with the STD P/T Center program coordinator regarding the budget, needs of the system for training, and compliance with the "model" clinic concept in the STD Clinical Practice Guidelines, 1991.

4. Collaborate with CDC in (a) selecting and defining software and a medical record that share common elements, meet requirements for quality assurance, and are compatible with future information linkages; and (b) selecting hardware that is cost efficient, based on available resources, and meets requirements for training and linkage with CDC-produced computer information systems.

5. Let a contract for services (software development, equipment, etc.) within 60 days of award stating the activity, time schedule, and cost of contract services. The contract should also allow the flexibility to refine the activity during the service period.

6. Coordinate with other award recipients to publish a final analysis on the success of computer-based medical record systems and to share common experiences.

B. CDC Activities

1. Provide scientific expertise in the selection of software design, and computer equipment.

2. Conduct site visits (a) at the applicant's request to advise on potential system designs and (b) to provide technical assistance with project development, implementation, and analysis.

3. Coordinate publication on the success of computer-based medical records systems in improving the quality of care in the STD clinic.

4. Assist project to identify potential problems and provide technical assistance.

Evaluation Criteria

Application will be reviewed and evaluated according to the following criteria (Maximum 100 points):

A. The need for program support, the level of financial effort of the local program toward total project costs, and the estimates of "maintenance of effort," and ability to support the system in subsequent years. (10 points)

B. The applicant's demonstrated ability to successfully purchase software and hardware in a timely manner, as demonstrated in previous grants/cooperative agreements. (20 points)

c. The extent to which the applicant has satisfactorily described (1) the proposed integration of an automated medical record system into its current record management structure, (2) the design of the medical record, quality assurance audit criteria, and "model" clinic status relative to the *STD Clinical Practice Guidelines, 1991,* and (3) the proposed training based on past P/T center performance. (60 points)

D. The extent to which the applicant (1) intends to collaborate with CDC on project design, implementation, and training and (2) ensures coordination with state and local STD and HIV prevention programs regarding future data needs. (10 points)

In addition, consideration will be given to the appropriateness and

reasonableness of the budget request, proposed use of project funds, and the need for program support. The level of support will depend on the availability of funds.

Other Requirements

Any materials for which support has been provided in whole or in part with PHS funds shall be subject to a nonexclusive, irrevocable, royalty-free license to the Government to reproduce, translate, publish, or otherwise use and authorize others to use the work for government purposes.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.978, Sexually Transmitted Disease Research, Demonstrations, and Public Information and Education Grants.

Application Submission and Deadline

The original and two copies of the application, using PHS form 5161–1, must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, MS E14, Atlanta, GA 30305, on or before April 1, 1992.

A. Deadline: Applications shall be considered as meeting the deadline if they are either: 1. Received on or before the deadline, or 2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

B. Late Applications: Applications that do not meet the criteria in A.1., or A.2., will be considered late applications. Late applications will not be considered in the current funding cycle and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Linda Long, Grants Management Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., MS E14, Atlanta, GA 30305, (404) 842–6640 or FTS 236–6640.

Programmatic technical assistance may be obtained from Kimberly Geissman, National Center for Prevention Services, DSTD/HIVP, MS E27, Centers for Disease Control, Atlanta, GA 30333, (404) 639–1233 or FTS 236–1233.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Governments Printing Office, Washington, DC 20402–9325, (202) 783–3238.

Announcement Number 210, "STD PROFESSIONAL EDUCATION IN COMPUTER-BASED CLINIC QUALITY ASSURANCE SYSTEMS," must be referenced in all requests for information pertaining to these projects.

Dated: January 15, 1992.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 92–1477 Filed 1–21–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92N–0013]

Drug Export; Retro-Tek™ HIV–1/HTLV–I Combination ELISA Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cellular Products, Incorporated, has filed an application requesting approval for the export of the RETRO-TEK™ HIV–1/HTLV–I COMBINATION ELISA Test Kits to Italy, and Spain.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Cellular Products, Inc., 872 Main St., Buffalo, NY 14202, has filed an application requesting approval for the export of RETRO-TEK™ HIV–1/HTLV–I COMBINATION ELISA test kits to Italy and Spain. The RETRO-TEK™ HIV–1/HTLV–I COMBINATION ELISA test kit is an enzyme linked immunosorbent assay (ELISA) for the simultaneous detection of antibodies to either Human Immunodeficiency Virus Type 1 (HIV–1) and/or Human T-Lymphototrophic Virus Type I (HTLV–I) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on December 9, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 3, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: January 7, 1992.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 92-1553 Filed 1-21-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92N-0016]

Drug Export; Optiray 240 (Ioversol Injection 51%), Optiray 300 (Ioversol Injection 64%), Optiray 350 (Ioversol Injection 74%)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Millinckrodt Medical, Inc., has filed an application requesting approval for the export of the human drug Optiray (ioversol injection) to Germany.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Mallinckrodt Medical, Inc., 675 McDonnel Blvd., P.O. Box 5840, St. Louis, MO 63134, has filed an application requesting approval for the export of the drug Optiray (ioversol injection) to Germany. This product is used as diagnostic radiopaque media. The application was received and filed in the Center for Drug Evaluation and Research on December 23, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 3, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: January 15, 1992.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92-1552 Filed 1-21-92; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[OIS-015-N]

Medicare Program; Quarterly Listing of Program Issuances and Coverage Decisions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretative regulations and other **Federal Register** notices, and statements of policy that were published during July, August, and September 1991 that relate to the Medicare program. Section 1871(c) of the Social Security Act requires that we publish a list of our Medicare issuances in the **Federal Register** at least every three months.

Wefd also are providing the content of the revisions to the Medicare Coverage Issues Manual published during this quarter. On August 21, 1989 (54 FR 34555), we published the content of the Manual and indicated that we will publish quarterly any updates. Adding the Medicare Coverage Issues Manual changes to this listing allows us to fulfill this requirement in a manner that facilitates identification of coverage and other changes in our manuals.

FOR FURTHER INFORMATION CONTACT:

Allen Savadkin, (410) 966-5265 (For Instruction Information).

Sam Shekar, (410) 966-5316 (For Coverage Information).

Margaret Teeters, (410) 966-4678 (For All Other Information).

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare program, a program that pays for health care and related services for 34 million Medicare beneficiaries. Administration of the program involves (1) providing information to beneficiaries, health care providers, and the public; and (2) effective communications with regional offices, State governments, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the program is based, we issue regulations under authority granted the Secretary under sections 1102 and 1871 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necesseary to administer the program efficiently.

Section 1871(c)(1) of the Act requires that we publish in the **Federal Register** no less frequently than every three months a list of all Medicare manual instructions, interpretative rules, statements of policy, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21730). As in prior notices, although both substantive and interpretative regulations published in the **Federal Register** in accordance with section 1871(a) of the Act are not subject to the publication requirement of section 1871(c), for the sake of completeness of the listing of operational and policy statements, we are including those regulations (proposed and final) published.

II. Coveraged Issues

We receive numerous inquiries from the general public about whether specific items or services are covered under Medicare. Providers, carriers and intermediaries have copies of the Medicare Coverage Issues Manual,

which identifies those medical items, services, technologies, or treatment procedures that can be paid for under Medicare. On August 21, 1989, we published a notice in the **Federal Register** (54 FR 34555) that contained all the Medicare coverage decisions issued in that manual.

In that notice, we indicated that revisions to the Coverage Issues Manual will be published at least quarterly in the **Federal Register**. We also sometimes issue proposed or final national coverage decision changes in separate **Federal Register** notices. Table IV of this notice contains the text of revisions to the Coverage Issues Manual published between July 1 and September 30, 1991. Readers should find this an easy way to identify both issuance changes to all our manuals and the text of changes to the Coverage Issues Manual.

Revisions to the Coverage Issues Manual are not published on a regular basis but on an as needed basis. We publish revisions as a result of technological changes, medical practice changes, responses to inquiries we receive seeking clarifications, or the resolution of coverage issues under Medicare. If no Coverage Issues Manual revisions were published during a particular quarter, our listing will reflect that fact.

Not all revisions to the Coverage Issues Manual contain major changes. As with any instruction, sometimes minor clarifications or revisions are made within the text. We have reprinted manual revisions as transmitted to manual holders. The new text is shown in italics. We will not reprint the table of contents, since the table of contents serves primarily as a finding aid for the user of the manual and does not identify items as covered or not.

We issued our first update that included the text of changes to the Coverage Issues Manual on March 20, 1990 (55 FR 10290), our second on February 6, 1991 (56 FR 4830), our third on July 5, 1991 (56 FR 30752), and our fourth on November 22, 1991 (56 FR 58913). The issuance update found in Table IV of this notice, when added to material from the manual published on August 21, 1989, and the updates published on March 20, 1990, February 6, 1991, July 5, 1991, and November 22, 1991 constitute a complete manual as of September 30, 1991. Parties interested in obtaining a copy of the manual and revisions should follow the instructions in section IV of this notice.

III. How to Use the Listing

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretative regulations, or coverage decisions published during this timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577); those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication; and those seeking information on the location of regional depository libraries may wish to review Table IV of our first notice. We have divided this current listing into four tables.

Table I describes where interested individuals can get a description of all previously published HCFA manuals and memoranda.

Table II of this notice lists, for each of our manuals or Program Memoranda, a transmittal number unique to that instruction and its subject matter. A transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Table III lists all substantive and interpretative Medicare regulations and general notices published in the **Federal Register** during this period. For each item, we list the date published, the title of the regulation, and the Parts of the Code of Federal Regulations (CFR) which have changed.

Table IV sets forth the revisions to the Medicare Coverage Issues Manual that were published during this quarter. For each revision, we give a brief synopsis of the revision as it appears on the transmittal sheet, the manual section number, and the title of the section. We present a complete copy of the revised material, no matter how minor the revision, and identify the revision by printing in italics the text that was changed. If the transmittal includes material unrelated to the revised sections, for example, when the addition of revised material causes other sections to be repaginated, we do not reprint the unrelated material.

IV. How to Obtain Listed Material

A. Manuals

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 783–3238; National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS will give complete details on how to obtain the publications they sell.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the Government Printing Office at the same address indicated above for manual issuances. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

C. Rulings

Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We also sometimes publish Rulings in the **Federal Register**.

V. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the Federal Depository Library Program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of nearly every Federal Government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are

shown in Table II, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Regional Office Manual, Part 2, Medicare (HCFA–Pub. 23–2) transmittal entitled "The Contractor Performance Evaluation Program," use the Superintendent of Documents No. HE 22.8/8 and the HCFA transmittal number 315.

VI. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Individuals are expected to purchase copies or arrange to review them as noted above.

Questions concerning items in Tables I or II may be addressed to Allen Savadkin, Office of Insuances, Health Care Financing Administration, room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966–5265.

Questions concerning items in Tables IV may be addressed to Sam Shekar, Office of Coverage and Eligibility Policy, Health Care Financing Administration, room 445 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966–5316.

Questions concerning all other information may be addressed to Margaret Teeters, Regulations Staff, Health Care Financing Administration, room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966–4678.

Table I

Description of Manuals, Memoranda and HCFA Rulings

An extensive descriptive listing of manuals and memoranda was previously published at 53 FR 21730 and supplemented at 53 FR 36891 and 53 FR 50577. Also, for a complete description of the Medicare Coverage Issues Manual, please review 54 FR 34555.

TABLE II—MEDICARE MANUAL INSTRUCTIONS JULY–SEPTEMBER 1991

Trans. No.	Manual/Subject/Publication No.
	Intermediary Manual **Part 1—Fiscal Administration (HCFA-Pub. 31-1)** **(Superintendent of Documents No. HE 22.8/6-3)**
121	● HCFA Approval of Subcondtracts and Requests for Automated Data Processing Systems and Operations Changes
	Intermediary Manual **Part 3—Claims Process (HCFA-Pub. 13-3)** **(Superintendent of Documents No. HE 22.8/6**
1534	● Payment for Blood Clotting Factor Administered to Hemophilia Inpatients
	PPS Pricer Program
1535	● Reporting Claims for Outpatient Services Using HCFA Common Procedure Coding System
	HCPCS Codes for Diagnostic Services and Medical Services
	Non-Reportable HCPCS Codes
1536	● Review of Form HCFA–1450 for Inpatient and Outpatient Bills
	Coding Structures
	Billing For Durable Medical Equipment and Orthotic/Prosthetic Devices
1537	● Additional Payment Amounts for Hospitals with a Disproportionate Share of Low Income Patients
	Radiology Pricer Program
1538	● Doctors of Podiatric Medicine
	Services of Interns or Residents-In-Training
	Services of Interns and Residents
	Physician Members of Utilization Review Committee
1539	● Incorrect Determinations of Noncoverage By Provider—Demand Bills
1540	● Form HCFA–1450 Consistency Edits
	HCPCS for Hospital Outpatient Radiology and Other Diagnostic Services
	Radiology Services HCPCS Codes
	Carriers Manual **Part 1—Fiscal Administration (HCFA-Pub. 14-1)** **(Superintendent of Documents No. HE 22.8/7-2)**
116	● HCFA Approval of Subcontracts and Requests for Automated Data Processing Systems and Operations Changes
	Carriers Manual **Part 2—Program Administration (HCFA-Pub. 14-2)** **(Superintendent of Documents No. HE 22.8/7-3)**
115	● Common Working File Host Performance Evaluation Progam
	Carriers Manual **Part 3—Claims Process (HCFA-Pub. 14-3)** **(Superintendent of Documents No. HE 22.8/7)**
1398	● Prohibition Against Billing for Unassigned Physician Services Which are Determined to be Not Reasonable and Necessary
1399	● Evidence of Medical Necessity for Home Oxygen Therapy
	Scheduling and Documenting Recertification of Medical Necessity for Oxygen
	Coverage Guidelines for Durable Medical Equipment Claims
	Evidence of Medical Necessity for Home Oxygen Therapy
	Evidence of Medical Necessity in Other Than Oxygen Claims
	Evidence of Medical Necessity-Oxygen Claims
1400	● Rural Health Clinic Services

TABLE II—MEDICARE MANUAL INSTRUCTIONS JULY–SEPTEMBER 1991—Continued

Trans. No.	Manual/Subject/Publication No.
	Inpatient Services Not Directly Delivered or Arranged for by the Hospital
	General Billing and Claims Processing Requirements
	Payment Determination
	Special Requirements for Oxygen Claims
	EOMB Messages
	Oxygen HCPCS Code
	Oxygen Equipment and Contents Billing Chart
1401	● Doctors of Podiatric Medicine
	Physician's Certification and Recertification
1402	● Calculation
	Calculation of Fee Schedule Amounts
	National Limitation Amount
	Who Can Bill and Receive Payment for Clinical Laboratory Tests
	Program Memorandum Intermediaries (HCFA-Pub. 60A) (Superintendent of Documents No. HE 22.8/6-5)
A-91-5	● Letter to Participating Hospitals Regarding Hospital Organ Procurement Protocol Requirements
A-91-6	● Coverage of the Use of Air Fluidized Beds under Part A in SNFs
A-91-7	● Investigational Intraocular Lenses
	Program Memorandum Carriers (HCFA-Pub. 60B) (Superintendent of Documents No. HE 22.8/6-5)
B-91-7	● Computing the Historical Payment Basis
B-91-8	● Note: This transmittal will not be issued.
B-91-9	● Medicare Certification Numbers for Clinical Laboratories, Ambulatory Surgical Centers, Portable X-Ray Supplies and Physical Therapists in Independent Practice
B-91-10	● Investigational Intraocular Lenses
	Program Memorandum Intermediaries/Carriers (HCFA-Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6-5)
AB-91-6	● Section 1879 Limitation of Liability—Statutory and Administrative Extensions of Favorable Presumptions for Home Health Agencies, Skilled Nursing Facilities and Hospices
	Regional Office Manual Part 2—Medicare (HCFA-Pub. 23-2) (Superintendent of Documents No. HE 22.8/8)
315	● The Contractor Performance Evaluation Program
	Scoring Methodology
	Appeals
	Recording and Reporting CPEP Scores
	Corrective Action Plan
	Multi-Regional and Multi-State Contractors
316	● Subcontracts and Automated Data Processing Changes
317	● Regional Office Medicare Secondary Payer Outreach Responsibilities
318	● Target Dates in Preparing ACERs/Service Area Reports
	ACERS for Multi-Regional Contractors
	Multi-Regional/State SAR Composition
	Evaluation of Contractors Under Budget—Flexibility Contracts
	Corrective Action
	ACER Format
	Contractor Profile
	CWF Host Performance Evaluation Program
	Hospital Manual (HCFA-Pub. 10) (Superintendent of Documents No. HE 22.8/2)
618	● Payment for Blood Clotting Factor Administered to Hemophilia Inpatients
619	● Reporting Outpatient Services Using HCFA Common Procedure Coding System
	HCPCS Codes for Diagnostic Services and Medical Services
	Non-Reportable HCPCS Codes
620	● Services of Interns or Residents-In-Training
	Who May Sign Certification or Recertification
	Content of Physician's Certification
	Utilization Review Plan
	Other Diagnostic or Therapeutic Items or Services
621	● HCPCS for Hospital Outpatient Radiology and Other Diagnostic Services
	Radiology Services HCPCS Codes
	Other Diagnostic Services HCPCS Codes

TABLE II—MEDICARE MANUAL INSTRUCTIONS JULY–SEPTEMBER 1991—Continued

Trans. No.	Manual/Subject/Publication No.
	Home Health Agency Manual (HCFA-Pub. 11) (Superintendent of Documents No. HE 22.8/5)
246	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
	Completion of Form HCFA-1450 For Home Health Agency Billing
	Coding Structures
247	● Benefits
	Services of Interns and Residents
	Skilled Nursing Manual (HCFA-Pub. 12) (Superintendent of Documents No. HE 22.8/3)
304	● Who May Sign Certification or Recertification
	Medical Services of an Interm or Resident-In-Training
	Physician's Certification and Recertification for Outpatient Physical Therapy, Occupational Therapy, and Speech Pathology
	Utilization Review Plan
	Physician Members of Utilization Review Committee
	Limitations on Payment for Inpatient Services Following Adverse Finding by Utilization Review Committee
	Availability and Appropriateness of Other Facilities and Services
	Failure to Make Timely Review of Cases
305	● Index
	Rural Health Clinic Manual (HFCA-Pub. 27) (Superintendent of Documents No. HE 22.8/19:985)
44	● Completion of HCFA-1450 by Independent Rural Health Clinics
	Billing for Mammography Screening
	Carrier Quality Assurance Handbook (HCFA-Pub. 25) (Superintendent of Documents No. HE 22.8/4)
45	● Coding/Data Entry
46	● Review Procedures and Error Determinations Based HCFA-1500 Claim Form Entries
	Coverage Issues Manual (HCFA-Pub. 9) (Superintendent of Documents No. HE 22.8/14)
49	● Percutaneous Transluminal Angioplasty in the Treatment of Obstructive Lesions of Arteriovenous Dialysis Fistulas
50	● Intraocular Lenses
51	● Note: This transmittal will not be issued
52	● Adult Liver Transplantation
	Pediatric Liver Transplantation
	Outpatient Physical Therapy and Comprehensive Outpatient Rehabilitation Facility Manual (HCFA-Pub. 9) (Superintendent of Documents No. HE 22.8/9)
103	● Physician's Certification and Recertification
	Provider Reimbursement Manual Part 1—(HCFA-Pub. 15-1) (Superintendent of Documents No. HE 22.8/4)
360	● Methodology for Determining Per Diem Prospective Payment Rates Effective for Cost Reporting Periods Beginning on or After October 1, 1990 and Before October 1, 1991
361	● Contracts Exceeding 5 Years
	Insurance Purchased From a Limited Purpose Insurance Company Premium Costs
	Provider Reimbursement Manual Part 1—Chapter 27 (HCFA-Pub. 15-27) Reimbursement for ESRD and Transplant Services (Superintendent of Documents No. HE 22.8/4)
16	● Inform HCFA Central Office of Composite Rate Exception Requests
	Submission of Documentation
	Provider Reimbursement Manual Part II—(HCFA-Pub. 15-IIX) Provider Cost Reporting Forms and Instructions (Superintendent of Documents No. HE 22.8/4)
3	● Supplemental Worksheet E-3, Part IV—Direct Graduate Medical Education and ESRD Outpatient Direct Medical Education Cost

TABLE III.—REGULATIONS AND NOTICES PUBLISHED JUNE–SEPTEMBER 1991

Publication date/cite	42 CFR Part	Title
FINAL RULES		
07/10/91 (56 FR 31332)	405	Medicare Program; Changes Concerning Interest Rates Charged on Overpayments and Underpayments (Correction Published 08/22/91 (56 FR 41726)).
07/18/91 (56 FR 32967)	484	Medicare Program; Home Health Agencies: Conditions of Participation.
08/12/91 (56 FR 38074)	400, 406, 407	Medicare and Medicaid Programs; Eligibility for Premium Hospital Insurance; State Buy-In Agreements.
08/30/91 (56 FR 43196)	412, 413	Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1992 Rates.
08/30/91 (56 FR 43358)	412, 413	Prospective Payment System for Inpatient Hospital Capital-Related Costs.
09/04/91 (56 FR 43706)	405, 410, 413, 414	Medicare Program; Coverage of Erythropoietin (EPO) Used by Competent Home Dialysis Patients.
09/13/91 (56 FR 46559)	405	Medicare Program; Review of Information and Recordkeeping Requirements for Providers of Outpatient Physical Therapy and/or Speech Pathology Services.
09/13/91 (56 FR 46562)	417	Medicare Program; Explanation of Enrollee Rights and Other Provisions Applicable to Health Maintenance Organizations and Competitive Medical Plans.
09/24/91 (56 FR 48110)	408	Medicare Program; Grace and Termination for Nonpayment of Supplementary Medical Insurance (Part B) Premiums for Insured and Uninsured Persons.
09/26/91 (56 FR 48826)	442, 447, 483, 488, 489, 498	Medicare and Medicaid; Requirements for Long Term Care Facilities.
09/26/91 (56 FR 48880)	431, 433, 483	Medicare and Medicaid Programs; Nurse Aide Training and Competency Evaluation Programs.
PROPOSED RULES		
07/05/91 (56 FR 30723)	417	Health Maintenance Organizations; Conforming Health Maintenance Organization Rules to Statutory Requirements.
07/11/91 (56 FR 31597)	417	Health Maintenance Organizations; Group Specific Ratings (Correction Published 08/13/91 (56 FR 38485)).
07/22/91 (56 FR 33403)	417, 431, 434, 1003	Medicare and State Health Care Programs: Fraud and Abuse; Civil Monetary Penalties and Intermediate Sanctions for Certain Violations by Health Maintenance Organizations and Competitive Medical Plans.
08/02/91 (56 FR 37054)	441, 488, 489	Medicare and Medicaid Programs; Survey and Enforcement Requirements and Alternative Sanctions for Home Health Agencies.
08/19/91 (56 FR 41110)	413	Medicare Program; Uniform Electronic Cost Reporting System for Hospitals.
09/09/91 (56 FR 45926)	405	Medicare Program; Revision of the Medicare Economic Index.
09/27/91 (56 FR 49154)	409, 418, 484	Medicare Program; Medicare Coverage of Home Health Services, Medicare Conditions of Participation, and Home Health Aide Supervision.

NOTICES

Publication date/cite	Title
07/01/91 (56 FR 29967)	Medicare Program; Peer Review Organization Contracts; Solicitation of Statements of Interest from In-State Organizations (AK, ID, ME, VT, DC).
07/05/91 (56 FR 30752)	Medicare Program; Quarterly Listing of Program Issuances and Coverage Decisions.
07/11/91 (56 FR 31666)	Medicare Program; Revised Procedures for Paying Claims From Providers of Services.
07/12/91 (56 FR 31952)	Medicare Program; Medicare Secondary Payer Data Match.
07/16/91 (56 FR 32437)	Medicare Program; Establishment of the Practicing Physicians Advisory Council and Request for Nominations for Members.
07/30/91 (56 FR 36030)	Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1992 Rates (Correction Notice for the Proposed Rule Published 06/03/91 (56 FR 25178).
09/04/91 (56 FR 43790)	Medicare Program; Peer Review Organizations: Revised Scopes of Work for Delaware, Missouri, Montana, Nebraska, New Jersey, Nevada, Oklahoma, Rhode Island, South Carolina, Washington, and Wyoming.
09/05/91 (56 FR 43929)	Medicare and Medicaid Programs; Recognition of the Community Health Accreditation Program Standards for Home Care Organizations.
09/20/91 (56 FR 47758)	Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance.
09/20/91 (56 FR 47763)	Medicare Program; Conditional Designation of States in Which Medicare SELECT Insurance May be Issued.

Table IV—Medicare Coverage Issues Manual

(For the reader's convenience, new material and changes to previously published material are in italics. If any part of a sentence in the manual instruction has changed, the entire line is shown in italics. The transmittal includes material unrelated to revised sections. We are not reprinting the unrelated material.)

[Transmittal No. 49; section 50–32, Percutaneous Transluminal Angioplasty (PTA) in the Treatment of Arteriosclerotic Obstructions in the Lower Extremities, and section 50–34, Obsolete or Unreliable Diagnostic Tests.

CHANGED IMPLEMENTING INSTRUCTION—EFFECTIVE DATE: For services performed on or after 7/29/91.

Section 50–32.4, Percutaneous Transluminal Angioplasty (PTA) in the Treatment of Obstructive Lesions of Arteriovenous Dialysis Fistulas. This section is revised to provide for coverage of PTA in the treatment of obstructive lesions of arteriovenous dialysis fistulas. This procedure was previously excluded from coverage. This revision also includes the appropriate International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) codes and/or the HCFA Common Procedure Coding System (HCPCS) codes.

Note: ICD–9–CM and HCPCS codes have also been added to §§ 50–32 through 50–32.3.]

50–32 PERCUTANEOUS TRANSLUMINAL ANGIOPLASTY (PTA) IN THE TREATMENT OF ARTERIOSCLEROTIC OBSTRUCTIONS IN THE LOWER EXTREMITIES (EFFECTIVE FOR SERVICES PERFORMED ON AND AFTER MAY 15, 1981)

This procedure involves inserting a balloon catheter into a narrow or occluded artery in order to recanalize and dilate the artery by inflating the balloon. *PTA in the treatment of arteriosclerotic obstructions in the lower extremities, i.e., the iliac, femoral, and popliteal arteries is a covered service. (ICD–9–CM code 39.59 or CPT codes 75962 or 75963)*

50–32.1 Percutaneous Transluminal Coronary Angioplasty (PTCA) in the Treatment of Stenotic Lesions of a Single Coronary Artery (Effective for Services Performed on and After November 22, 1985.)

PTCA (ICD–9–CM codes 36.01–36.03 or CPT code 92982), a percutaneous transluminal angioplasty procedure performed in the coronary artery, is covered for treatment of stenotic lesions of a single coronary artery for patients for whom the likely alternative treatment is coronary bypass surgery, and who exhibit the following characteristics:

- angina refractory to optimal medical management;
- objective evidence of myocardial ischemia; and
- lesions amenable to angioplasty.

50–32.2 Percutaneous Transluminal Angioplasty (PTA) in the Treatment of Stenotic Lesions of the Renal Arteries (Effective for Services Performed on and After March 21, 1983)

PTA in the treatment of stenotic lesions of the renal arteries is a covered procedure for a limited group of patients. (ICD–9–CM code 39.59 or CPT codes 75966 or 75967.) This group comprises those patients in whom there is an inadequate response to a thorough medical management of symptoms and for whom surgery is the likely alternative. PTA for this group of patients is an alternative to surgery, not simply an addition to medical management.

50.32.3 Percutaneous Transluminal Angioplasty (PTA) in the Treatment of Obstructive Lesions of the Aortic Arch Vessels—Not Covered

PTA in the treatment of obstructive lesions of the aortic arch vessels, *including the carotid, subclavian, and vertebral arteries, is excluded from coverage. (ICD–9–CM code 39.59 or use CPT code 76499, unlisted diagnostic radiologic procedure, and submit report with claim.) This treatment is a* relatively new procedure whose safety and efficacy has not yet been established.

50–32.4 Percutaneous Transluminal Angioplasty (PTA) in the Treatment of Obstructive Lesions of Arteriovenous Dialysis Fistulas (Effective for services performed on and after 7/29/91)

The use of PTA to dilate failing arteriovenous dialysis fistulas and grafts is a covered procedure. (ICD–9–CM code 39.59 or use CPT code 76499, unlisted diagnostic radiologic procedure, and submit report with claim.) Current medical data support a conclusion that PTA for this indication is clinically effective and well tolerated by patients.

50–34 OBSOLETE OR UNRELIABLE DIAGNOSTIC TESTS (Effective for services performed on and After May 15, 1980)

Do not routinely pay for the following diagnostic tests because they are obsolete and have been replaced by more advanced procedures. The listed tests may be paid for only if the medical need for the procedure is satisfactorily *justified by the physician who performs it. When the services are subject to PRO review, the PRO is responsible for determining that satisfactory medical justification exists. When the services are not subject to PRO review, the* intermediary or carrier is responsible for determining that satisfactory medical justification exists:

- amylase, blood isoenzymes, electrophoretic
- chromium, blood
- guanase, blood
- zinc sulphate turbidity, blood
- skin test, cat scratch fever
- skin test, lymphopathia venereum
- circulation time, one test
- cephalin flocculation
- congo red, blood
- hormones, adrenocorticotropin quantitative animal tests
- hormones, adrenocorticotropin quantitative bioassay
- thymol turbidity, blood
- skin test, actinomycosis
- skin test, brucellosis
- skin test, psittacosis
- skin test, trichinosis

[Transmittal No. 50; section 65–7, Intraocular Lenses (IOLs).

CHANGED IMPLEMENTING INSTRUCTIONS—EFFECTIVE DATE: Services performed on or after May 30, 1991. This section has been revised to reflect the fact that Medicare no longer covers most investigational IOLs. Medicare coverage of IOLs is not allowed for lenses in the FDA core study or modified core study investigational groups. Medicare coverage of IOLs is only allowed for lenses fully approved for marketing by the FDA or those awaiting FDA approval in the FDA adjunct study group. IOLs in the adjunct study group differ only slightly from fully approved models. Manufacturers that wanted to continue an investigational IOL model in the adjunct study group into 1989 were required to submit to FDA a pre-market application for those IOLs before January 1, 1989.

Because emerging technology has resulted in IOLs manufactured from a variety of materials, including soft silicone gels, the word "hard" has been deleted from the definition of an IOL as an artificial lens.]

65–7 INTRAOCULAR LENSES (IOLS)

An intraocular lens, or pseudophakos, is an artificial lens which may be implanted to replace the natural lens after cataract surgery. Intraocular lens implantation services, as well as the lens itself, may be covered if reasonable and necessary for the individual. Implantation services may include hospital, surgical, and other medical services, including pre-implantation ultrasound (A-scan) eye measurement of one or both eyes.

The Food and Drug Administration (FDA) has classified IOLs into the following four categories, any of which may be covered:

- Anterior chamber angle fixation lenses;
- Iris fixation lenses;
- Irido-capsular fixation lenses; and
- Posterior chamber lenses.

Medicare does not cover IOLs in the FDA core study or modified core study investigational groups. Medicare covers only IOLs fully approved for marketing by the FDA or those lenses awaiting FDA approval in the FDA adjunct study group. IOL models in the adjunct study group differ only slightly from those already approved by FDA. Manufacturers that wanted to continue an investigational IOL model in the adjunct study group into 1989 were required to submit to FDA pre-market application for those IOLs before January 1, 1989.

[Transmittal No. 52; section 35–53, Adult Liver Transplantation.

CHANGED IMPLEMENTING INSTRUCTIONS—EFFECTIVE DATE: For services performed on or after March 8, 1990, in certain facilities approved by Medicare as meeting regulatory criteria. This section is renamed and revised to extend coverage of liver transplantation to adults with specific conditions when performed in facilities approved by HCFA as meeting certain institutional criteria.]

[Transmittal N. 52; section 35–53.1, Pediatric Liver Transplantation.

NEW IMPLEMENTING INSTRUCTIONS—EFFECTIVE DATE:

For services performed on or after April 12, 1991. This section reiterates our policy on coverage of pediatric liver transplantation and, effective for services performed on or after April 12, 1991, provides instructions for applying to become a HCFA approved pediatric liver transplant facility described in the Federal Register of that date, 56 FR 15006.]

35–53 ADULT LIVER TRANSPLANTATION

A. General. Adult liver transplantation is covered under Medicare when performed in a facility which is approved by HCFA as meeting institutional coverage criteria, and for patients with one of the following conditions:

- *Primary biliary cirrhosis;*
- *Primary sclerosing cholangitis;*
- *Postnecrotic cirrhosis, hepatitis B surface antigen negative;*
- *Alcoholic cirrhosis;*
- *Alpha-1 antitrypsin deficiency disease;*
- *Wilson's disease; or*
- *Primary hemochromatosis.*

Coverage of adult liver transplantation is effective as of the date of the facility's approval, but for applications received before July 13, 1991, can be effective as early as March 8, 1990. (See Federal Register 56 FR 15006 dated April 12, 1991.)

B. Follow-up Care. Follow-up care required as a result of a covered liver transplant is covered, provided such services are otherwise reasonable and necessary. Follow-up care is also covered for patients who have been discharged from a hospital after receiving a noncovered liver transplant. Coverage for follow-up care is for items and services that are reasonable and necessary as determined by Medicare guidelines. (See Intermediary Manual § 3101.14 and Medicare Carriers Manual § 2300.1.)

C. Immunosuppressive Drugs. See Intermediary Manual § 3660.8 and Medicare Carriers Manual §§ 2050.5, 4471 and 5249.

35–53.1 PEDIATRIC LIVER TRANSPLANTATION

Effective for services performed on or after February 9, 1984, liver transplantation is covered for children (under age 18) with extrahepatic biliary atresia or any other form of end-stage liver disease, except that coverage is not provided for children with a malignancy extending beyond the margins of the liver or those with persistent viremia.

Effective for services performed on or after April 12, 1991, liver transplantation is covered for Medicare beneficiaries when performed in a pediatric hospital that performs pediatric liver transplants if the hospital submits an application which HCFA approves documenting that:

- *The hospital's pediatric liver transplant program is operated jointly by the hospital and another facility that has been found by HCFA to meeting the institutional coverage criteria in the* Federal Register *notice of April 12, 1991;*
- *The unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria); and*
- *The hospital is able to provide the specialized facilities, services, and personnel that are required by pediatric liver transplant patients.*

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 9, 1992.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 92–1453 Filed 1–21–92; 8:45 am]

BILLING CODE 4120–01–M

Office of the Secretary

Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHs becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Service in the Federal Register.

The Secretary of the Treasury has certified a rate of 14⅞% for the quarter ended December 31, 1991. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: January 14, 1992.

Dennis J. Fischer,

Deputy Assistant Secretary, Finance.

[FR Doc. 92–1509 Filed 1–21–92; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–92–3268; FR–3052–N–03]

Public and Indian Housing Drug Elimination Program—FY 1991 Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for the Public and Indian Housing Drug Elimination Program—FY 1991. The announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197 or 708–3502. The TDD number for the hearing impaired is (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide grants to Public Housing Agencies and Indian Housing Authorities for activities designed to eliminate drug-related crime.

The 1991 awards announced in this Notice were selected for funding in a competition announced in a Federal Register Notice published on June 19, 1991 (56 FR 28290). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $140,775,000 was awarded to 496 Public Housing Agencies and Indian Housing Authorities. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names addresses, and amounts of those awards as follows:

NOFA for the Public and Indian Housing Drug Elimination Program—FY 1991

PHA/IHA Recipient	Amount approved
Region I: Boston Regional Office	
Bridgeport Housing Authority, 376 E. Washington Ave., Bridgeport, CT 06608-2128	$80,347
New Haven Housing Authority, 360 Orange St., New Haven, CT 06509	704,400
New Britain Housing Authority, 34 Marimac Rd., New Britain, CT 06053-2699	250,000
Waterbury Housing Authority, 70 Lakewood Rd., Waterbury, CT 06704-2498	250,000
Willimantic Housing Authority, 49 West Ave., Willimantic, CT 06226-0606	50,000
East Hartford, Housing Auth., 452 Main St., East Hartford, CT 06108-1498	250,000
Norwich Housing Authority, 10 Westwood Park, Norwich, CT 06360-6699	50,000
Greenwich Housing Authority, 249 Millbank Ave., Greenwich, CT 06836-6620	64,900
New London Housing Authority, 78 Walden Ave., New London, CT 06320-0119	50,000
Lowell Housing Authority, 350 Moody St., Lowell, MA 01853-60	248,500
Boston Housing Authority, 52 Chauncy St., Boston, MA 02111-2302	1,932,750
Fall River Housing Authority, 85 Morgan St., Fall River, MA 02722-0989	245,590
Worcester Housing Authority, 40 Belmont St., Worcester, MA 01605-0000	243,760
Chelsea Housing Authority, 54 Locke St., Chelsea, MA 02150-2209	156,600
Woburn Housing Authority, 59 Campbell St., Woburn, MA 01801	153,500
Quincy Housing Authority, 80 Clay St., Quincy, MA 02170	250,000
Lynn Housing Authority, 174 S. Common St., Lynn, MA 01905-2513	220,000
Brockton Housing Authority, 45 Goodard Rd., Brockton, MA 02403	233,500
Gloucester Housing Authority, Gloucester, MA 01931-1599	44,000
Somerville Housing Authority, 30 Memorial Rd., Somerville, MA 02145	218,500
Springfield Housing Authority, 25 Saab Ct., Springfield, MA 01101-1609	250,000
Portland Housing Authority, 14 Baxter Bl., Portland, ME 04101-4935	250,000
Manchester Housing Authority, 198 Hanover St., Manchester, NH 03104	248,000
Nashua Housing Authority, 101 Major Dr., Nashua, NH 03060-4783	250,000
Providence Housing Authority, 100 Broad St., Providence, RI 02903	396,127
Woonsocket Housing Authority, 679 Social St., Woonsocket, RI 02895-3251	245,335
Newport Housing Authority, 1 Park Holm, Newport, RI 02840-1212	250,000
Winooski Housing Authority, 83 Barlow St., Winooski, VT 05404	50,000

NOFA for the Public and Indian Housing Drug Elimination Program—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Region II: New York Regional Office	
Newark Housing Authority, 57 Sussex Ave., Newark, NJ 07103-3992	1,885,050
Elizabeth Housing Authority, 688 Maple Ave., Elizabeth, NJ 07202-2690	250,000
Perth Amboy Housing Authority, 881 Amboy Ave., Perth Amboy, NJ 08862-1999	250,000
Ashbury Park Housing Authority, 1000½ Third Ave., Ashbury Park, NJ 07712-3847	247,000
Long Branch Housing Authority, P.O. Box 336, Long Branch, NJ 07740-0336	250,000
Jersey City Housing Authority, 400 U.S. Highway 1, Jersey City, NJ 07306	748,000
Camden Housing Authority, 422 Dudley St., Camden, NJ 08105	466,800
Passaic Housing Authority, 333 Passaic St., Passaic, NJ 07055	250,000
Atlantic City Housing Auth., 227 N. Vermont Ave., Atlantic City, NJ 08404-7549	250,000
Hoboken Housing Authority, 400 Harrison St., Hoboken, NJ 07030	250,000
Paterson Housing Authority, 160 Ward St., Paterson, NJ 07509	432,215
New Brunswick Housing Auth., 176 Memorial Pkwy., New Brunswick, NJ 08903-1368	250,000
Morristown Housing Authority, 31 Early St., Morristown, NJ 07960	100,000
Orange Housing Authority, 530 Thomas Bl., Orange, NJ 07050-4121	250,000
Rahway Housing Authority, 165 E. Grand Ave., Rahway, NJ 07065-5491	110,146
Woodbridge Housing Authority, 10 Bunns Lake, Woodbridge, NJ	214,920
Plainfield Housing Authority, 510 E. Front St., Plainsfield, NJ 07060-1443	236,500
Edison Housing Authority, William Dunham Dr., Edison, NJ 08837-3560	80,000
Bridgeton Housing Authority, 110 E. Commerce St., Bridgeton, NJ 08302-2606	225,000
Glassboro Housing Authority, 737 Lincoln Bl., Glassboro, NJ 08028-0563	90,000
Syracuse Housing Authority, 516 Burt St., Syracuse, NY 13202-3999	495,600
Buffalo Municipal Housing Auth., 901 City Hall, Buffalo NY 14202	1,000,000
Yonkers Housing Authority, 1511 Central Bank Ave., Yonkers, NY 10710-0035	250,000
New York City Housing Auth., 250 Broadway, New York, NY 10007	12,545,211
Utica Housing Authority, 509 Second St., Utica, NY 13501-2450	291,048
Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202-1637	345,900
Troy Housing Authority, 1 Eddy's Lane, Troy, NY 12180-1498	219,435
Binghamton Housing Authority, 35 Exchange St., Binghamton, NY 13902-1906	238,000
Cohoes Housing Authority, Remsen St., Cohoes, NY 12047-2603	107,500

NOFA for the Public and Indian Housing Drug Elimination Program—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Freeport Housing Authority, 3 Buffalo Ave., Freeport, NY 11520-4098	180,000
Watervliet Housing Authority, 2400 Second Ave., Watervliet, NY 12189-2746	75,000
Schenectady Housing Authority, 375 Broadway, Schenectady, NY 12305-2595	412,420
Elmira Housing Authority, 346 Woodlawn Ave., Elmira, NY 14901-1397	249,500
Rochester Housing Authority, 140 West Ave., Rochester, NY 14611-2744	490,618
White Plains Housing Authority, 223 Grove St., White Plains, NY 10601-4199	249,971
Town of Hempstead Housing Auth., 760 Jeruselum Ave., Uniondale, NY 11553	255,800
Long Beach Housing Authority, 500 Centre St., Long Beach, NY 11561-2015	179,500
Newburgh Housing Authority, 150 Smith St., Newburg, NY 12550-3601	64,500
Amsterdam Housing Authority, 52 Division St., Amsterdan, NY 12010-4002	132,500
Poughkeepsie Housing Authority, 221 Smith St., Poughkeepsie, NY 12601-0632	160,000
Glen Cove Housing Authority, 140 Glen Cove Ave., Glen Cove, NY 11542-3403	125,000
Peekskill Housing Authority, 807 Main St., Peeksville, NY 10566-2028	141,000
Hempstead Housing Authority, 75 Laurel Ave., Hempstead, NY 11550-5599	181,000
New Rochelle Housing Authority, 50 Sickles Ave., New Rochelle, NY 10801-4029	250,000
Region III: Philadelphia Regional Office	
Washington DC Housing Auth., Washington, DC	1,727,835
Wilmington Housing Authority, 400 Walnut, Wilmington, DE 19801	250,000
Dover Housing Authority, 1266-76 White Oak Rd., Dover, DE 19901-3437	87,225
Delaware State Housing Auth., 18 The Green, Dover, DE 19903	50,000
Annapolis Housing Authority, 1217 Madison St., Annapolis, MD 21403	250,000
Baltimore Housing Authority, 417 E. Lafayette St., Baltimore, MD 21202	2,661,523
Frederick Housing Authority, 209 Madison St., Frederick, MD 21701	279,300
Hsng. Oppor.—Montgomery Cnty., 10400 Detrick Ave., Kensington, MD 20895	275,600
St. Michaels Housing Authority, St Michaels, MD 21663	50,000
Anne Arundel County HA, 7885 Gordon Ct., Glen Burnie, MD 21061	249,980
Pittsburgh Housing Authority, 200 Ross St., Pittsburgh, PA 15219-2068	657,272
McKeesport Housing Authority, Ohio & Brownlee St., McKeesport, PA 15132-1706	250,000
Allegheny County Housing Auth., 341 Fourth Ave., Pittsburgh, PA 15222	816,200

NOFA FOR THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Harrisburg Housing Authority, 351 Chestnut St., Harrisburg, PA 17105-9713	250,000
Reading Housing Authority, 400 Hancock Bl., Reading, PA 19611	322,000
City of Erie Housing Authority, 606 Holland St., Erie, PA 16501-1285	250,000
Beaver County Housing Auth., 300 State St., Beaver, PA 15009-1798	379,500
Westmoreland County HA, R.D. #6 S. Greengate Rd., Greensburg, PA 15601	238,300
Lycoming County Housing Auth., 400 Lycoming St., Williamsburg, PA 17701-4976	88,461
Delaware County Housing Auth., 1855 Constitution Ave., Woodlyn, PA 19094	121,000
Easton Housing Authority, 221 S. Fourth St., Easton, PA 18042-4441	242,419
Franklin County Housing Auth., 202 Elder Ave., Waynesboro, PA 17268-1224	133,750
Lackawanna County Housing Auth., 2019 W. Pine St., Dunmore, PA 18512-0079	243,895
Shamokin Housing Authority, 1 E. Independence St., Shamokin, PA 17872-5861	42,700
Portsmouth Housing Authority, 339 High St., Portsmouth, VA 23705-1098	247,000
Alexandria Redevelopment Hsgn., Alexandria, VA	250,000
Norfolk Housing Authority, Norfolk, VA 23501-0968	816,800
Richmond Housing Authority, 901 N. Chamberlayne Pkwy., Richmond, VA 23261-6887	251,269
Roanoke Housing Authority, Roanoke, VA 24017-0359	300,000
Fairfax County Redevelopment, Fairfax, VA	250,000
Petersburg Housing Authority, 128 S. Sycamore St., Petersburg, VA 23804-0311	235,500
Waynesboro Housing Authority, 1700 New Hope Rd., Waynesboro, VA 22980-2515	84,900
Suffolk Housing Authority, P.O. Box 1858, Suffolk, VA 23434-1858	188,850
Cumberland Plateau Hsgn. Auth., Lebanon, VA 24266-1328	154,000
Charleston Housing Authority, 911 Michael Ave., Charleston, WV 25321	250,000
Huntington Housing Authority, 30 Northcott Ct., Huntington, WV 25722-2183	245,000
Parkersburg Housing Authority, 1901 Cameron Ave., Parkersburg, WV 26101-9316	50,000
Bluefield Housing Authority, Hill St., Bluefield, WV 24701-1800	71,000
Kanawha County Housing Auth., 231 Hale St., Charleston, WV 25338	50,000
Region IV: Atlanta Regional Office	
Birmingham Housing Authority, 1826 Third Ave., Birmingham, AL 35255-5906	1,024,000
Mobile Housing Authority, 151 S. Claiborne St., Mobile, AL 36633-1345	837,000
Phenix City Housing Authority, 200 16th St., Phenix City, AL 36868-0338	250,000
Montgomery Housing Authority, 1020 Bell St., Montgomery, AL 36197-3501	520,200
Dothan Housing Authority, P.O. BOX 1727, Dothan, AL 36302-1727	185,000
Fairfield Housing Authority, P.O. Box 352, Fairfield, AL 35064-0352	144,000
Decatur Housing Authority, P.O. Box 878, Decatur, AL 35602	250,000
Gadsden Housing Authority, 422 Chestnut St., Gadsden, AL 35902-1219	226,019
Auburn Housing Authority, Booker St., Audburn, AL 36830	160,000
Florence Housing Authority, 303 N. Pine St., Florence, AL 35630	249,998
Haleyville Housing Authority, P.O. Box 786, Haleyville, AL 35565	128,300
Sylacauga Housing Authority, 78 Betsy Ross Ln., Sylacauga, AL 35150	250,000
Russellville Housing Authority, 601 Engle Dr., Russellville, AL 35653	103,750
Opelika Housing Authority, P.O. Box 786, Opelika, AL 36801-0786	250,000
Lanett Housing Authority, 1431 S. 14th St., Lanett, AL 36863-0465	100,000
Sheffield Housing Authority, W. 17th St., Sheffield, AL 35660-0429	189,500
Ozark Housing Authority, 7 Matthews Ave., Ozark, AL 36361-0566	217,000
Tuscaloosa Housing Authority, 2808 10th Ave., Tuscaloosa, AL 35403-2281	249,590
Jefferson County Hsgn. Auth., 2100 Walker Chapel Rd., Fultondale, AL 35068	200,000
Hartselle Housing Authority, P.O. Box 1165, Hartselle, AL 35640-1165	92,500
Talledega Housing Authority, 151 Curry Ct., Talladega, AL 35160	69,240
Demopolis Housing Authority, 800 E. Pettus St., Demopolis, AL 36732-0730	89,000
Piedmont Housing Authority, 154 Craig Ave., Piedmont, AL 36272-0420	48,700
Opp. Housing Authority, P.O. Drawer 579, Opp, AL 36467-0579	54,200
York Housing Authority, 209 5th Ave., York, AL 36925	50,000
Eufaula Housing Authority, S. Orange St., Eufaula, AL 36027-0036	160,500
Prattville Housing Authority, 318 Walter St., Prattville, AL 36067-0006	28,000
Northport Housing Authority, P.O. Drawer 349, Northport, AL 35476-0349	198,500
Greenville Housing Authority, 601 Beeland St., Greenville, AL 36037-0521	99,500
Foley Housing Authority, 302 Fourth Ave., Foley, AL 36535	49,050
Prichard Housing Authority, 800 Hinson Ave., Prichard, AL 36610	184,494
Alexander City Housing Authority, P.O. Drawer 788, Alexander City, AL 35010-0788	208,900
Livingston Housing Authority, Highway 11, Livingston, AL 35470-0397	55,000
Greene County Housing Auth., P.O. Box, 389, Eutaw, AL 35462-0389	117,900
St. Petersburg Housing Auth., 325 Martin Luther King St., St. Petersburg, FL 33733-2949	194,852
Orlando Housing Authority, 300 Reeves Ct., Orlando, FL 32801-3199	331,000
Pensacola Housing Authority, Pensacola, FL 32523-8370	221,352
Daytona Beach Housing Auth., 118 Cedar St., Daytona Beach, FL 32014-4904	250,000
Ft. Lauderdale Housing Auth., 437 SW. 4th Ave., Fort Lauderdale, FL 33315-1093	250,000
Lakeland Housing Authority, 430 Hartsell Ave., Lakeland, FL 33802	250,000
Cocoa Beach Housing Authority, 828 Magnolia St., Merritt Island, FL 32954-0338	218,000
Brevard County Housing Auth., 615 Kurek #32953 Ct., Merritt Island, FL 32954-0338	125,000
Ocala Housing Authority, 1415 NE. 32nd Tr., Ocala, FL 32670	83,500
Chipley Housing Authority, 500 N. Boulevard W., Chipley, FL 32428-0388	50,000
Ft. Pierce Housing Authority, 707 N. 7th St., Fort Pierce, FL 34950	250,000
Ft. Myers Housing Authority, 4224 Michigan Ave., Fort Myers, FL 33916	250,000
Palatka Housing Authority, 400 N. 15th St., Palatka, FL 32077	158,980
Gainesville Housing Authority, 1900 SE. 4th St., Gainesville, FL 32601	250,000
Hialeah Housing Authority, 70 E. 7th St., Hialeah, FL 33010-4465	250,000
Ft. Walton Beach Housing Auth., 27 Robinwood Dr., Fort Walton Beach, FL 32548-5394	83,976
Alachua County Housing Auth., 636 NE. First St., Gainesville, FL 32601-5398	58,000
Deland Housing Authority, 300 Sunflower Cir., DeLand, FL 32724-5999	99,500
Tallahassee Housing Authority, 2940 Grady Rd., Tallahassee, FL 32312-2210	250,000
Broward County Housing Auth., 1773 N. State #7 Rd., Lauderhill, FL 33313	222,913
Deerfield Beach Housing Auth., 425 NW. 1st Ter., Deerfield Beach, FL 33441	98,000
Delray Beach Housing Authority, 770 SW 12th Ter., Delray Beach, FL 33444-1367	97,250
Pasco County Housing Authority, 507 Acorn Cir., Dade City, FL 33525	103,500
Augusta Housing Authority, P.O. Box 3246, Augusta, GA 30901	453,660
Savannah Housing Authority, 200 E. Broad St., Savannah, GA 31402-1179	451,400
Athens Housing Authority, P.O. Box 1469, Athens, GA 30603-1469	250,000
Columbus Housing Authority, P.O. Box 69, Columbus, GA 31993	425,600
Rome Housing Authority, P.O. Box 1468, Rome, GA 30161-2737	247,000
Atlanta Housing Authority, 739 W. Peachtree St., Atlanta, GA 30365	2,115,750
Macon Housing Authority, P.O. Box 4928, Macon, GA 31208-4928	420,200
Brunswick Housing Authority, P.O. Box 1118, Brunswick, GA 31521-1118	228,000

NOFA FOR THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Decatur Housing Authority, P.O. Box 1627, Decatur, GA 3003-1627	99,000
Albany Housing Authority, P.O. Box 485, Albany, GA 31702-0485	200,000
Waycross Housing Authority, P.O. Box 1427, Waycross, GA 31501-1407	246,500
Gainesville Housing Authority, P.O. Box 653, Gainesville, GA 30503-0653	214,105
Moultrie Housing Authority, P.O. Box 1048, Moultrie, GA 31768	156,500
Americus Housing Authority, P.O. Box 1226, Americus, GA 31709-1226	227,305
Cordele Housing Authority, 401 Tenth St., Cordele, GA 31015-2301	237,500
Monroe Housing Authority, P.O. Box 550, Monroe, GA 30655-0550	191,500
Eastman Housing Authority, P.O. Box Drawer 100, Eastman, GA 31023-0100	107,751
Nashville Housing Authority, P.O. Box 278, Nashville, GA 31639-0278	250,000
Lawrenceville Housing Auth., 502 Glen Ridge Dr., Lawrenceville, GA 30245	106,000
Newnan Housing Authority, P.O. Box 881, Newnan, GA 30264-0881	235,500
Camilla Housing Authority, P.O. Box 247, Camilla, GA 31730-0247	197,893
Pelham Housing Authority, P.O. Box 269, Pelham, GA 31779-0269	103,500
Valdosta Housing Authority, P.O. Box 907, Valdosta, GA 31601	250,000
Carrollton Housing Authority, P.O. Box 627, Carrollton, GA 30117-0627	79,406
Calhoun Housing Authority, 111 F South Fair St., Calhoun, GA 30701-2369	39,146
Alma Housing Authority, P.O. Box 190, Alma, GA 31510-0190	161,000
Social Circle Housing Auth., P.O. Box 550, Monroe, GA 30655-0550	50,000
Montezuma Housing Authority, P.O. Box 67, Montezuma, GA 31063-1724	82,000
Warner Robins Housing Auth., P.O. Box 2048, Warner Robins, GA 31099-2048	202,000
Loganville Housing Authority, P.O. Box 550, Monroe, GA 30655-0550	50,000
Madison Housing Authority, P.O. Box 550, Monroe, GA 30655-0550	50,000
Canton Housing Authority, 1 Shipp St., Canton, GA 30114-2813	50,000
College Park Housing Authority, 1906 W. Princeton Ave., College Park GA 30337-2418	182,833
Dekalb County Housing Auth., P.O. Box 1627, Decatur, GA 30031	249,000
Covington Housing Authority, P.O. Box 1367, Covington, GA 30209-1367	138,001
Louisville Housing Authority, 420 S. Eighth St., Louisville, KY 40203	994,484
Covington Housing Authority, 2940 Madison Ave., Covington, KY 41015	250,000
Lexington-Fayette HA, 635 Ballard St., Lexington, KY 40508	330,400
Paducah Housing Authority, 2330 Tennessee St., Paducah, KY 42002	250,000
Owensboro Housing Authority, 2161 E. 19th St., Owensboro, KY 32301	161,090
Hopkinsville Housing Authority, P.O. Box 437, Hopkinsville, KY 42240-0437	217,000
Moorehead Housing Authority, 200 Heritage Pl., Moorehead, KY 40351	111,000
Georgetown Housing Authority, 139 Scroggin Bl., Georgetown, KY 40324	152,550
Bowling Green Housing Auth., P.O. Box 116, Bowling Green, KY 42102-0116	152,280
Danville Housing Authority, 116 Carrie Bolin St., Columbia, KY 42728	46,080
Dayton Housing Authority, 201 Clay St., Dayton, KY 41074	25,430
Todd County Housing Authority, P.O. Box 68, Guthrie, KY 42234	46,000
Hattiesburg Housing Authority, Hattiesburg, MS 39403-0832	120,000
Meridian Housing Authority, 2305 D St., Meridian, MS 39302-0870	250,000
Biloxi Housing Authority, Biloxi, MS 39533	250,000
MS Regional HA IV, Columbus, MS 39704-2249	127,000
MS Regional HA VIII, Gulfport, MS 39505	359,600
Starkville Housing Authority, Starkville, MS 39759	121,000
Corinth Housing Authority, 3600 Tinin Dr., Corinth, MS 38834	149,000
Columbus Housing Authority, Columbus, MS 39703	233,464
Tupelo Housing Authority, Tupelo, MS 38802	203,500
Water Valley Housing Authority, HH-1 Blackmur Dr., Water Valley, MS 38965	99,500
Oxford Housing Authority, Oxford, MS 38655	89,000
Lumberton Housing Authority, Lumberton, MS 39455	50,000
Jackson Housing Authority, 3430 Albemarle Rd., Jackson, MS 39213	244,000
Wilmington Housing Authority, 508 S. Front St., Wilmington, NC 28402	244,950
Raleigh Housing Authority, 600 Tucker St., Raleigh, NC 27611	406,800
Charlotte Housing Authority, 1301 S. Boulevard, Charlotte, NC 28236	755,000
Kinston Housing Authority, 608 N. Queen St., Kinston, NC 28501	250,000
New Bern Housing Authority, 837 Tryon Palace Dr., New Bern, NC 28560	174,137
High Point Housing Authority, 500 E. Russell Ave., High Point, NC 27261	269,600
Ashville Housing Authority, 165 S. French Broad Ave., Asheville, NC 28802	312,400
Concord Housing Authority, 283 SW. Goodman Drive, Concord, NC 28025	76,000
Fayetteville Housing Authority, 108 Wiley St., Fayetteville, NC 28302	197,075
Greensboro Housing Authority, 450 N. Church St., Greensboro, NC 27420	418,750
Winston-Salem Housing Auth., 901 Cleveland Ave., Winston-Salem, NC 27101	401,650
Durham Housing Authority, 330 E. Main St., Durham, NC 27702	419,800
Goldsboro Housing Authority, 1729 Edgerton St., Goldsboro, NC 27533-1403	249,000
Salisbury Housing Authority, 200 S. Boundary St., Salisbury, NC 28145-0159	250,000
Laurinburg Housing Authority, 645 Woodlawn St., Laurinburg, NC 28352	236,000
Rocky Mount Housing Authority, 1006 Aycock St., Rocky Mount, NC 27803	250,000
Greenville Housing Authority, 1103 Broad St., Greenville, NC 27835-1426	250,000
Mount Airy Housing Authority, 302 Virginia St., Mount Airy, NC 27030	109,700
Smithfield Housing Authority, 801 S. Fifth St., Smithfield, NC 27577	102,500
Chapel Hill Housing Authority, 317 Caldwell St., Chapel Hill, NC 27516	136,000
Hickory Housing Authority, 841 S. Center St., Hickory, NC 28603	155,500
Monroe Housing Authority, 504 Hough St., Monroe, NC 28110	103,000
Statesville, Housing Authority, 433 S. Meeting St., Statesville, NC 28677	228,400
Oxford Housing Authority, 101 Hillside Dr., Oxford, NC 27565	120,500
Ayden Housing Authority, 705 Liberty St., Ayden, NC 28513	83,707
Mid-East Regional Housing Auth., 809 Pennsylvania Ave., Washington, NC 27889	57,500
Charleston Housing Authority, 20 Franklin St., Charleston, SC 29401	212,529
Columbia Housing Authority, 1917 Harden St., Columbia, SC 29204	250,000
Spartenburg Housing Authority, 764 North Church St., Spartanburg, SC 29305	304,400
Greenville Housing Authority, 511 Augusta Rd., Greenville, SC 29603	245,636
Beaufort Housing Authority, 1009 Prince St., Beaufort, SC 29901	111,000
Florence Housing Authority, 400 E. Pine St., Florence, SC 29503	250,000
Greenwood Housing Authority, 315 Foundry Rd., Greenwood, SC 29648	50,000
Cheraw Housing Authority, 345 Dizzy Gillespie, Dr., Florence, SC 29503	115,000
Fort Mill Housing Authority, 105 Bozeman Dr., Fort Mill, SC 29715	50,000
Anderson Housing Authority, 1335 E. River St., Anderson, SC 29621	102,500
York Housing Authority, 221 California St., York, SC 29745	62,000
Johnson City Housing Authority, 901 Pardee St., Johnson City, TN 37605-0059	250,000
Knoxville Communmity Devel. Corp., 901 Broadway, Knoxville, TN 37927	742,400
Chattanooga Housing Authority, 505 W. Martin Luther King Bl., Chattanooga, TN 37401-1148	735,600
Metro Development/Housing Agn., 701 S. Sixth St., Nashville, TN 37202-0846	1,000,000
Jackson Housing Authority, 175 Preston St., Jackson, TN 38301-3188	199,240
Paris Housing Authority, 917 Minor St., Paris, TN 38242-0159	700,000
LaFollette Housing Authority, P.O. Box 392, LaFollette, TN 37766-0392	250,000
Brownsville Housing Authority, 205 Summer Oaks, Brownsville, TN 38012-0194	64,000
Murfreesboro Housing Authority, 318 E. Lokey Ave., Murfreesboro, TN 37130	175,000

NOFA FOR THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Tullahoma Housing Authority, 2401 Cedar Lane Village Dr., Tullahoma, TN 37388	33,760
Crossville Housing Authority, 202 Irwin Ave., Crossville, TN 38557	144,467
Columbia Housing Authority, 215 Dyer St., Columbia, TN 38401-0115	122,708
Virgin Islands Housing Auth., 402 Estate Anna Retreat, St. Thomas, VQ 00801-7668	250,000
Region V: Chicago Regional Office	
Poarch Creek Indian HA, P.O. Box 243-A, Atmore, AL 36502	50,000
Seminole Tribal IHA, 3101 NW. 63rd Ave., Hollywood, FL 33024	219,922
East St. Louis Housing Auth., 700 N. Twentieth St., East St. Louis, IL 62205	498,400
Chicago Housing Authority, 22 W. Madison St., Chicago, IL 60602	5,927,250
Springfield Housing Authority, 200 N. Eleventh St., Springfield, IL 62705	250,000
Champaign County Housing Auth., 1201 E. Colorado St., Urbana, IL 61801-0183	153,078
Danville Housing Authority, 611 Oak St., Danville, IL 61834-0312	250,000
Decatur Housing Authority, 1808 E. Locust St., Decatur, IL 62521-1409	158,945
LaSalle County Housing Auth., P.O. Box 782, Ottawa, IL 61350-0782	200,000
Madison County Housing Auth., 1609 Olive St., Collinsville, IL 62234	249,250
Joliet Housing Authority, P.O. Box 2519, Joliet, IL 60434-2519	250,000
Cook County Housing Authority, 59 E. Van Buren St., Chicago, IL 60605	436,400
Waukegan Housing Authority, 200 S. Utica St., Waukegan, IL 60085	50,000
Freeport Housing Authority, 10 N. Galena, Freeport, IL 61032-4302	193,000
St. Clair County Housing Auth., 100 N. Forty-eighth St., Belleville, IL 62223	241,208
Williamson County Housing Auth., 300 Hickory St., Carterville, IL 62918-0045	250,000
Bloomington Housing Authority, 104 E. Wood, Bloomington, IL 61701-6768	121,016
Jackson County Housing Auth., 300 N. Seventh St., Murphysboro, IL 62966	247,536
Alton Housing Authority, 2406 Crawford, Alton, IL 62002-0967	124,700
Lake County Housing Authority, 33928 N. Rte. 45, Grayslake, IL 60030	242,530
Morgan County Housing Auth., 301 W. Beecher, Jacksonville, IL 62650	50,000
Fort Wayne Housing Authority, 1 Main St., Fort Wayne, IN 46802	249,861
Muncie Housing Authority, 402 E. Second St., Muncie, IN 47302-2495	250,000
Gary Housing Authority, 578 Broadway St., Gary, IN 46402-1966	427,205
South Bend Housing Authority, 513 S. Scott St., South Bend, IN 46634-0057	250,000
Indianapolis Housing Authority, 410 N. Meridian St., Indianapolis, IN 46204-1790	122,200
Bloomington Housing Authority, 1007 N. Summit St., Bloomington, IN 48401-1815	155,390
Elkhart Housing Authority, 1396 Benham Ave., Elkhart, IN 46516-2505	236,503
East Chicago Housing Authority, 4920 Larkspur Dr., East Chicago, IN 46312-0498	228,050
Saginaw Housing Commission, 2811 Davenport Ave., Saginaw, MI 48602-3747	250,000
River Rouge Housing Commission, 180 Visger Rd., River Rouge, MI 48218-1159	150,000
Flint Housing Commission, 3820 Richfield Rd., Flint, MI 48506-2616	250,000
Benton Harbor Housing Comm., 925 Buss St., Benton Harbor, MI 49022	179,000
Ypsilanti Housing Commission, 601 Armstrong Dr., Ypsilanti, MI 48197-5224	109,000
Inkster Housing Commission, 2000 Inkster Rd., Inkster, MI 48141-1871	250,000
Royal Oak Township HC, 21312 Wyoming Ave., Ferndale, MI 48220-2125	50,000
Port Huron Housing Commission, 905 Seventh St., Port Huron, MI 48060-5399	219,476
Lansing Housing Commission, 310 Seymour Ave., Lansing, MI 48933	250,000
Sault St. Marie Tribal IHA, Sault Ste. Marie, MI 49783	126,500
Grand Traverse Band IHA, Suttons Bay, MI 49682	50,000
St. Paul Housing Authority, 413 Wacouta St., St. Paul, MN 55101	737,898
Minneapolis Housing Authority, 1001 N. Washington, Minneapolis, MN 55401	765,412
Leech Lake Reservation IHA, Cass Lake, MN 56633	170,600
White Earth Reservation IHA, White Earth, MN 56591	192,500
Fond du Lac Reservation IHA, Cloquet, MN 55720	98,194
Columbus Housing Authority, 960 E. Fifth Ave., Columbus, OH 43201	520,000
Cuyahoga Metropolitan HA, 1441 W. Twenty-fifth St., Cleveland, OH 44113-3101	1,755,000
Cincinnati Metropolitan HA, 16 W. Central Pkwy., Cincinnati, OH 45210-1991	953,830
Dayton Metropolitan HA, 400 Wayne Ave., Dayton, OH 45410	857,800
Lucas Metropolitan HA, 435 Nebraska Ave., Toledo, OH 43692-0477	657,400
Trumbull Metropolitan HA, 1977 Niles Rd., Warren, OH 44484-5197	277,696
Zanesville Housing Authority, 2746 Maple Ave., Zanesville, OH 43701	250,000
Butler Metropolitan HA, 4110 Hamilton-Middletown Rd., Hamilton, OH 45013-3362	175,000
Stark Metropolitan HA, 1800 W. Tuscarawas St., Canton, OH 44708-4997	460,000
Superior Housing Authority, 1219 N. Eighth St., Superior, WI 54880	50,000
City of Milwaukee Housing Auth., P.O. Box 324, Milwaukee, WI 53201	950,800
Madison Community Development, 215 Martin Luther King Jr. Dr., Madison, WI 53701	218,000
Lac du Flambeau Chippewa IHA, P.O. Box 187, Lac du Flambeau, WI 54538	175,000
Oneida Housing Authority IHA, P.O. Box 68, Oneida, WI 54155	115,720
Beloit Community Development, 220 Portland Ave., Beloit, WI 53511	47,625
Menominee Tribal IHA, P.O. Box 476, Keshena, WI 54135	220,500
Region VI: Ft. Worth Regional Office	
North Little Rock HA, 2201 Division, North Little Rock, AR 72115-0516	250,000
Little Rock Housing Authority, 100 Wolfe St., Little Rock, AR 72202-4614	250,000
Camden Housing Authority, 800 Monroe St., Camden, AR 71701	190,080
Pine Bluff Housing Authority, 2503 Belle Meade, Pine Bluff, AR 71611-8872	112,298
West Memphis Housing Authority, 2820 Harrison St., West Memphis, AR 72301-6099	199,000
Van Buren Housing Authority, 1701 Chestnut St., Van Buren, AR 72956	101,000
Wynne Housing Authority, 200 Fisher Pl., Wynne, AR 72396-0138	23,879
Dewitt Housing Authority, 101 Oakland, Dewitt, AR 72042-0447	50,000
Brinkley Housing Authority, 501 W. Cedar St., Brinkley, AR 72021-2713	67,000
Warren Housing Authority, 1 King Square W., Warren, AR 71671-0602	73,000
Malvern Housing Authority, Third & Gloster, Malvern, AR 72104-0550	84,500
Polk County Housing Authority, 1107 Morrow Ave., Mena, AR 71953-4398	39,228
New Orleans Housing Authority, 918 Carondelet St., New Orleans, LA 70130	990,000
Lafayette City HA, 100 C.O. Circle, Lafayette, LA 70501-7602	183,044
Monroe Housing Authority, 300 Harrison St., Monroe, LA 71201-1194	300,660
Alexandria Housing Authority, 2558 Loblolly Ln., Alexandria, LA 71306-1219	250,000
New Iberia Housing Authority, 325 North St., New Iberia, LA 70560-3565	77,882
Morgan City Housing Authority, Morgan City, LA 70381-2393	50,000
Welsh Housing Authority, 511 N. Thompson Ave., Iowa, LA 70647-0700	49,650
Bossier City Housing Authority, 167 Riverview Cir., Bossier City, LA 71771-5666	50,000
Lafourch Parish HA, 750 Triple Oaks St., Raceland, LA 70394-0499	34,000
Houma Housing Authority, 332 West Park Ave., Houma, LA 70364-4267	110,850
St. John the Baptist HA, 1 Elm Loop, La Place, LA 70069-1599	158,000
Grambling Housing Authority, 300 B.T. Woodard Cir., Grambling, LA 71245-0626	50,000
Slidell Housing Authority, 1230 Martin Luther King Dr., Slidell, LA 70459-1392	58,200

NOFA FOR THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Dequincy Housing Authority, 500 South Grand Ave., Dequincy, LA 70633-0126	50,000
Natchitoches City HA, 416 Shady Lane Dr., Natchitoches, LA 71458-0754	195,500
Rapides Parish Housing Auth., Boyce, LA 71409	32,800
City of Las Cruces HA, 926 S. Pedor, Las Cruces, NM 88001	143,076
Alamogordo Housing Authority, 104 Avenida Amigos, Alamogordo, NM 88310-0336	110,000
Santa Fe City Housing Auth., 624 Alta Vista St., Santa Fe, NM 87502	215,500
Bernalillo Town Housing Auth., 990 Calle Los Mayores, Bernalillo, NM 87004-0070	39,228
Oklahoma City Housing Auth., 1700 NE. Fourth St., Oklahoma City, OK 73117	628,400
Lawton Housing Authority, 620 E. Ave, Lawton, OK 73501-4501	159,500
McAlester Housing Authority, 620 W. Kiowa, McAlester, OK 74501-0819	137,000
Tulsa Housing Authority, 415 E. Independence, Tulsa, OK 74148-0369	250,000
Sac & Fox Nation of Ok. IHA, P.O. Box 1252, Shawnee, OK 74801	208,825
Absentee Shawnee IHA, P.O. Box 425, Shawnee, OK 74801	145,800
Shawnee Housing Authority, 1002 W. 7th St., Shawnee, OK 74802-3427	204,650
Delaware IHA, P.O. Box 334, Chelsea, OK 74016	50,000
Austin Housing Authority, 1640 E. Second St., Austin, TX 78762-6159	232,600
El Paso Housing Authority, 1600 Montana Ave., El Paso, TX 79902-9895	1,000,000
Fort Worth Housing Authority, 212 Burnet St., Fort Worth, TX 76101-0430	250,000
Houston Housing Authority, 4217 San Felipe, Houston, TX 77252-9950	804,300
San Antonio Housing Authority, 818 S. Flores St., San Antonio, TX 78295-1300	944,450
Corpus Christi Housing Auth., 3701 Ayres, Corpus Christi, TX 78467-7019	391,012
Dallas Housing Authority, 2525 Lucas Dr., Dallas, TX 75219	990,997
Waco Housing Authority, 800 Clay, Waco, TX 76706-0978	250,000
Laredo Housing Authority, 2000 San Francisco Ave., Laredo, TX 78040	250,000
Baytown Housing Authority, 805 Nazro St., Baytown, TX 77520	50,000
Del Rio Housing Authority, 401 Las Vascas, Del Rio, TX 78841-4080	78,300
Galveston Housing Authority, 920 53rd St., Galveston, TX 77550-1012	250,000
Lubbock Housing Authority, 515 N. Zenith, Lubbock, TX 79408-2568	249,710
Eagle Pass Housing Authority, 2095 Main St., Eagle Pass, TX 78853-0844	50,000
Wichita Falls Housing Auth., 501 Webster, Wichita Falls, TX 76307-0544	250,000
Beaumont Housing Authority, P.O. Box 1312, Beaumont, TX 77704	250,000
Denison Housing Authority, Denison, TX 75021-0447	99,000
Temple Housing Authority, 700 W. Calhoun, Temple, TX 76501-0634	81,833
Corsicana Housing Authority, NW. Avenue, Corsicana, TX 75151	59,420
Port Arthur Housing Authority, P.O. Box 2295, Port Arthur, TX 77642	114,423
Orange City Housing Authority, 101 Pine Grove Dr., Orange, TX 77630	196,000
Mission Housing Authority, 906 E. 8th St., Mission, TX 78572	104,000
Dublin Housing Authority, 210 May St., Dublin, TX 76446	55,000
Paris Housing Authority, Paris, TX 75460-0688	104,000
Edinburg Housing Authority, 2301 N. 13th St., Edinburg, TX 78540-0295	122,116
Harlingen Housing Authority, 202 S. First St., Harlingen, TX 78551-1669	250,000
Sherman Housing Authority, Sherman, TX 75090-2147	132,430
Victoria Housing Authority, 1410 E. Crestwood, Victoria, TX 77901	90,280
San Marcos Housing Authority, 1201 Thorp Ln., San Marcos, TX 78666	102,744
Crystal City Housing Authority, 1014 E. Uvalde, Crystal City, TX 78839	109,600
Kingsville Housing Authority, 1000 Brown Villa, Kingsville, TX 78363	100,000
Robstown Housing Authority, 625 W. Avenue F, Robstown, TX 78380	50,000
Vernon Housing Authority, Vernon, TX 76384-1780	89,720
Pearsall Housing Authority, 501 W. Medina, Pearsall, TX 78061	50,000
Palacios Housing Authority, Palacios, TX 77465	50,000
Starr County Housing Authority, 106 Arredondo, Rio Grande City, TX 78582-0050	50,000
Roma Housing Authority, Roma, TX 78584-1002	50,000
Odessa Housing Authority, 124 E. Second, Odessa, TX 79760-4398	50,000
Nacogdoches Housing Authority, 804 Jordan St., Nacogdoches, TX 75961	49,000
Region VII: Kansas City Regional Office	
Des Moines Housing Authority, 1101 Crocker St., Des Moines, IA 50309-1110	140,938
Iowa City Housing Authority, 410 E. Washington St., Iowa City, IA 52240	26,251
So. Iowa Regional Hsng. Augh., 219 N. Pine St., Creston, IA 50801-2413	50,000
Knoxville Housing Authority, 305 S. Third St., Knoxville, IA 50138-2287	19,500
No. Iowa Regional Hsng. Auth., 121 3rd St., NW., Mason City, IA 50401	60,500
Central Regional Iowa HA, 1111 9th St., Des Moines, IA 50314	33,666
Kansas City Housing Authority, Kansas, KS	250,000
Topeka Housing Authority, 1312 Polk, Topeka, KS 66608	250,000
Lawrence Housing Authority, 1600 Haskell Ave., Lawrence, KS 66044	148,483
Manhattan Housing Authority, 300 N. 5th St., Manhatten, KS 66502-1024	46,629
City of St. Louis Housing Auth., 4100 Lindell Bl., St. Louis, MO 63108-2999	664,000
Kansas City Housing Authority, 299 Paseo, Kansas City, MO 64106-2608	175,754
St. Louis County HA, St. Louis, MO	250,000
Columbia Housing Authority, Pacquin Towers, Columbia, MO 65205-5010	144,950
Jefferson City Housing Auth., Jefferson City, MO 65101-1029	179,500
Mexico Housing Authority, 828 Garfield, Mexico, MO 65265-0484	127,000
Moberly Housing Authority, 23 Kehoe, Moberly, MO 65270-0159	125,000
Fulton Housing Authority, 350 Sycamore St., Fulton, MO 65251-0814	100,000
Excelsior Springs Housing Auth., 320 W. Excelsior, Excelsior Springs, MO 64024-2173	50,000
Springfield Housing Authority, 421 W. Madison St., Springfield, MO 65806-2931	249,118
Macon Housing Authority, 218 Lakeview Towers, Macon, MO 63552-4160	50,933
Bowling Green Housing Auth., 501 W. Champ Clark Dr., Bowling Green MO 63334-2015	50,000
Hannibal Housing Authority, Hannibal, MO 63401-0996	116,155
Wellstone Housing Authority, 1584 Ogden Avenue, Wellstone, MO 63133	105,000
Omaha Housing Authority, 540 S. 27th St., Omaha, NE 68105-1521	525,400
Region VIII: Denver Regional Office	
Denver Housing Authority, 1100 W. Colfax Ave., Denver, CO 80204	783,800
Billings Housing Authority, 2415 First Ave., Billings, MT 59101	57,153
Great Falls Housing Authority, 1500 Sixth Ave., Great Falls, MT 59405-2599	100,000
Blackfeet IHA, Browning, MT 59417	250,000
Fort Peck IHA, Poplar, MT 59255	250,000
Chippewa Cree IHA, Box Elder, MT 59521	186,500
Cass County Housing Authority, 230 Eighth Ave., West Fargo, ND 58078	9,000
Turtle Mountain IHA, Belcourt, ND 58316	170,000
Trenton, IHA, Trenton, ND 58853	46,796
Omaha Tribal IHA, Macy, NE 68039	49,674
Oglala Sioux IHA, Pine Ridge, SD 57770	244,402
Cheyenne River IHA, Eagle Butte, SD 57625	240,000
Sisseton-Wahpeton IHA, Sisseton, SD 57262	50,000
Salt Lake City Housing Auth., 1800 SW., Temple, Salt Lake City, UT 84115	68,957
Wind River IHA, P.O. Box 327, Fort Washakie, WY 82514	138,050
Region IX: San Francisco Regional Office	
City of Phoenix Housing Auth., Phoenix, AZ	455,600
Glendale Housing Authority, Glendale, AZ	77,500
Tucson Housing Authority, Tucson, AZ	264,408
Maricopa County Housing Auth., Maricopa, AZ	250,000
Pinal County Housing Dept., Pinal, AZ	50,000

NOFA FOR THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM—FY 1991—Continued

PHA/IHA Recipient	Amount approved
Colorado River Indian Housing, Parker, AZ 85344	7,587
Tohono O'Odham Housing Auth., Sells, AZ 85634	250,000
Chandler Housing Authority, Chandler, AZ	100,000
Pascua Yaqui Housing Authority, Tucson, AZ 85746	250,000
San Francisco HA, San Francisco, CA	1,013,550
Los Angeles County HA (No. 1), Los Angeles, CA	620,000
Housing Authority City of LA, Los Angeles, CA	1,340,400
Fresno City HA, Fresno, CA	217,812
Contra Costa HA, Contra Costa, CA	250,000
San Bernardino County HA, San Bernardino, CA	172,449
Stanislaus, HA, Stanislaus, CA	249,754
Fresno County HA, Fresno, CA	250,000
San Diego Housing Commission, San Diego, CA	250,000
Madera Housing Authority, Madera, CA	100,000
City of Santa Barbara HA, Santa Barbara, CA	238,500
Owens Valley IHA, P.O. Box 490, Big Pine, CA 93513	175,000
Northern Circle Tribe IHA, 694 Pinoleville, Dr., Ukiah, CA 95482	85,500
Hawaii Housing Authority, Honolulu, HI	988,715
Reno HA, Reno, NV	250,000
Las Vegas HA, Las Vegas, NV	252,000
Washoe Indian Tribe, IHA, 1588 Watasheamu Dr., Gardnerville, NV 89410	102,664
North Las Vegas HA, Las Vegas, NV	110,500
Clark County HA, Las Vegas, NV	242,065
Region X: Seattle Regional Office	
Housing Authority of Portland, 135 SW. Ash, Portland, OR 97204	526,800
Seattle HA, 120 Sixth Ave., Seattle, WA 98109	1,000,000
King County HA, 15455 65th Ave., Seattle, WA 98188-2583	591,904
Bremerton HA, Bremerton, WA 98310-0131	33,680
Tacoma HA, 1728 E. 44th St., Tacoma, WA 98404-4699	291,400
Bellingham HA, 208 Unity (Lower Level) St., Bellingham, WA 98225-4844	280,000
Quinault IHA, Taholah, WA 98587	40,500
Makah IHA, Neah Bay, WA 98357	83,500
Kitsap County HA, 9265 Bayshore Dr., Silverdale, WA 98383	63,000
Snohomish County HA, 3423 Broadway, Everett, WA 98201-5095	91,000

Dated: January 14, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-1438 Filed 1-21-92; 8:45 am]

BILLING CODE 4210-33-M

[Docket No. N-92-3236; FR 2952-N-03]

Public Housing Development/Major Reconstruction of Obsolete Public Housing; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the FY 91 Notice of Fund Availability (NOFA), Invitation for Applications: Public Housing Development/Major Reconstruction of Obsolete Public Housing. The announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1800. The TDD number for the hearing impaired is (202) 708-0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide development or acquisition costs of public housing, including major reconstruction of obsolete public housing.

The 1991 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on March 29, 1991 (56 FR 13246) (corrections and clarifications were published on April 11, 1991 (56 FR 14730) and June 28, 1991. (56 FR 29694). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $666,923,182 was awarded to 170 Public Housing Agencies (PHAs). In addition, $66.8 million was set aside for incentive awards in the Family Self-Sufficiency program under section 554 of the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990). In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as follows:

FY 91 Notice of Fund Availability (NOFA), Invitation for Applications: Public Housing Development/Major Reconstruction of Obsolete Public Housing

PHA name	Amount
I—Boston Regional Office:	
Bridgeport Hsg. Auth., E. Washington Ave., Bridgeport, CT.	2,534,200
Bristol Hsg. Auth., Quaker La., Bristol, CT.	797,600
Cambridge Hsg. Auth., 270 Green St., Cambridge, MA.	4,095,000
Danbury Hsg. Auth., Mill Ridge Rd., Danbury, CT.	3,507,550
Fall River Hsg. Auth., 85 Morgan St., Box 989, Fall River, MA.	2,994,100 3,504,500 7,513,136
Johnston Hsg. Auth., 8 Forand Circle, Johnston, RI.	2,810,300
Manchester Hsg. Auth., 198 Hanover St., Manchester, NH.	3,008,219
Milford Hsg. Auth., Wildemere Beach, Milford, CT.	1,696,950
New Britain Hsg. Auth., Marimac Rd., New Britain, CT.	3,011,850
Norwalk Hsg. Auth., Monroe St., Norwalk, CT.	2,808,000
Norwich Hsg. Auth., Westwood Park, Norwich, CT.	2,458,700
Rockville Hsg. Auth., Franklin Park West, Rockville, CT.	981,250
Salem Hsg. Auth., 27 Charter St., Salem, MA.	2,916,400 1,890,550
Swansea Hsg. Auth., 100 Gardner Neck Rd., Swansea, MA.	1,624,000
Waterbury Hsg. Auth., Lakewood, Waterbury, CT.	3,361,500
II—New York Regional Office:	
Jersey City Hsg. Auth., 400 US Hwy. #1, Jersey City, NJ.	854,350
Kiryas Joel Hsg. Auth., PO Box 1038, Monroe, NY.	8,011,800
Newark Hsg. Auth., 57 Sussez Ave., Newark, NJ.	10,913,750 10,483,850 9,590,800 9,590,800 8,051,907
New Square Hsg. Auth., 767 N Main St., New Square, NY.	3,393,800
New York City Hsg. Auth., 250 Broadway, New York City, NY.	13,354,200 16,827,000 15,106,200 15,106,200 15,718,800
Rochester Hsg. Auth., 140 West Ave., Rochester, NY.	2,345,000 2,345,000
Troy Hsg. Auth., 1 Eddy La., Troy, NY	10,667,300
III—Philadelphia Regional Office:	
Altoona Hsg. Auth., 1100 Eleventh St., Altoona, PA.	1,232,000
Cumberland Co. Hsg. Auth., 114 N Hanover St., Carlisle, PA.	930,800 930,800
Delaware State Hsg. Auth., 18 The Green, Dover, DE.	1,057,650
Dover Hsg. Auth., 1266-76 Whiteoak Rd., Dover, DE.	1,938,250
Fairfax Co. Hsg. Auth., One Univ Plaza, Fairfax, VA.	905,400 765,450
Hsg. Opportunities Comm., 10400 Detrick Ave., Kensington, PA.	3,039,000
Lancaster Hsg. Auth., 333 Church St., Lancaster, PA.	4,000,000
Luzerne Co. Hsg. Auth., 250 First Ave., Kingston PA.	2,482,500 4,425,000
Morgantown Hsg. Auth., 517 Fairmont Ave., Fairmont, WV.	2,076,250
Newport News Hsg. Auth., 227 27th St., Newport News, VA.	1,519,350

PHA name	Amount
Northampton Hsg. Auth., 15 S Wood, Nazareth, PA.	1,712,750
Northumberland Hsg. Auth., 50 Mahoning St., Milton, PA.	2,251,400
Petersburg Hsg. Auth., 128 S. Sycamore St., Petersburg, VA.	2,359,500
Philadelphia Hsg. Auth., 2012 Chestnut St., Philadelphia, PA.	5,204,348
Pittsburgh Hsg. Auth., 200 Ross St., Pittsburgh, PA.	4,644,548
Raleigh Co. Hsg. Auth., PO Box 273, Beckley, WV.	2,076,000
Reading Hsg. Auth., 400 Hancock Blvd., Reading, PA.	850,000
St. Mary's Co. Hsg. Auth., Box 653, Leonardtown, MD.	645,200
	4,032,500
Westmoreland Hsg. Auth., S. Greengate Rd., Greensburg, PA.	1,388,800
Williamsport Hsg. Auth., 505 Center St., Williamsport, PA.	1,584,300
York Hsg. Auth., 31 S. Broad St., York, PA.	871,000
IV—Atlanta Regional Office:	
Anderson Hsg. Auth., 1335 E. River St., Anderson, SC.	2,800,000
Charleston Co. Hsg. Auth., 2106 Mt. Pleasant, Charleston, SC.	4,959,500
Cleveland Co. Hsg. Auth., 605 S. Pond St., Toccoa, GA.	379,650
Columbia Hsg. Auth., 1917 Harden St., Columbia, SC.	1,753,750
Concord Hsg. Auth., P.O. Box 308, Concord, NC.	1,759,550
Darlington Hsg. Auth., P.O. Box 1440, Darlington, SC.	1,490,700
Erwin Hsg. Auth., 100 Town Acres, Erwin, TN.	181,200
Fairfield Hsg. Auth., 6704 Avenue D, Fairfield, AL.	930,000
Fayetteville Hsg. Auth., P.O. Drawer 2349, Fayetteville, NC.	2,113,500
Florence Hsg. Auth., 400 E. Pine St., Florence, SC.	2,830,750
Ft. Mill Hsg. Auth., 105 Bozeman Dr., Ft. Mill, SC.	1,434,800
Greensboro, Hsg. Auth., PO Box 21287, Greensboro, NC.	3,107,500
Hanceville Hsg. Auth., PO Box 330, Hanceville, AL.	1,426,000
Hialeah Hsg. Auth., 70 E. 70th St., Hialeah, FL.	3,867,000
Jacksonville Hsg., Auth., 1300 Broad St., Jacksonville, FL.	11,194,200
Jacksonville Hsg., Auth., 100 Roebuck Manor, Jacksonville, AL.	1,855,800
Jefferson Co. Hsg. Auth., 2100 Walker Chapel Rd., Fultondale, AL.	3,220,600
Lexington Hsg. Auth., 100 Lexington St., PO Box 1085, Lexington, NC.	2,458,400
Long Beach Hsg. Auth., PO Box 418, Long Beach, MS.	3,490,200
Louisville Hsg. Auth., 420 S 8th St., Louisville, KY.	4,024,800
Macon Hsg. Auth., PO Box 4928, Macon, GA.	4,487,100
Metro Devel. & Hsg. Auth., 701 S. Sixth St., Nashville, TN.	3,382,500
MS Regional Hsg. IV, PO Drawer 1051, Columbus, MS.	2,486,750
MS Regional Hsg. VI, 2180 Terry Rd., Jackson, MS.	2,440,000
	1,037,000
Myrtle Beach Hsg. Auth., PO Box 2468, Myrtle Beach, SC.	1,326,850
NW Regional Hsg. Auth, PO Box 2510, Boone, NC.	1,290,450
Oxford Hsg. Auth., 900 Molly Barr Rd., Oxford, MS.	2,028,400
Paducah Hsg. Auth., 2330 Ohio St., Paducah, KY.	2,710,200
Prichard Hsg. Auth., PO Box 10307, Prichard, AL.	3,723,500
SC Reg 3 Hsg. Auth., PO Box 1326, Barnwell, SC.	3,825,600
Tallahassee Hsg. Auth., 2940 Grady Rd., Tallahassee, FL.	2,653,200
Warner Robins Hsg. Auth., PO Box 2048, Warner Robins, GA.	2,183,000
York Hsg. Auth., 221 California St., York, SC.	2,164,600
V—Chicago Regional Office:	
Alma Hsg. Auth., 423 Gratiot St. Alama, MI.	2,072,500
Athens Hsg. Auth., 490 Richland Ave., Athens, OH.	2,383,500
Brown Co. Hsg. Auth., 200 S Green St., Georgetown, OH.	1,716,000
Chicago Hsg. Auth., 22 W. Madison, Chicago, IL.	8,500,000
Columbiana Hsg. Auth., 325 Moore St., E. Liverpool, OH.	2,145,000
Cuyahoga Hsg. Auth., 1441 W. 25th, Cleveland, OH.	16,438,886
	4,921,875
Grand Rapids Hsg. Auth., 1420 Fuller SE, Grand Rapids, MI.	4,246,500
Greene Co. Hsg. Auth., 538 N. Detroit, Xenia, OH.	2,145,000
Habitat Co-Receiver, 405 N. Wabash Ave., Chicago, IL.	2,300,000
	2,300,000
	2,300,000
	2,300,000
	2,300,000
	2,300,000
	2,300,000
Hocking Hsg. Auth., 50 S High St., Logan, OH.	2,137,500
Ishpeming Hsg. Auth., 111 Bluff St., Ishpeming, MI.	1,921,750
Kokomo Hsg. Auth., 210 E. Taylor, Kokomo, IN.	1,737,000
La Cross Co. Hsg. Auth., 615 Plainview Rd., La Cross, WI.	3,502,700
Menomonie Hsg. Auth., 1202 10th St., Menomonie, WI.	986,500
Milwaukee Hsg. Auth., 809 N Broadway St., Milwaukee, WI.	4,682,800
	675,400
Minneapolis Hsg. Auth., 331 2nd Ave. S., #600, Minneapolis, MN.	1,176,650
Muskegon Hsg. Auth., 1080 Terrace St., Muskegon, MI.	2,123,250
Portage Hsg. Auth., 223 W. Main St., Ravenna, OH.	3,655,800
Rochester Hsg. Auth., 2122 Campus Dr., SE, Rochester, MN.	949,800
St. Cloud Hsg. Auth., 619 Mall Germain, St. Cloud, MN.	1,862,400
St. Louis Park Hsg. Auth., 5005 Minnetonka Blvd., St. Louis Park, MN.	1,547,950
St. Paul Hsg. Auth., 413 Wacouta, St. Paul, MN.	2,844,250
Sault Ste. Marie HA, 608 Pine St., Box 928, Sault Ste. Marie, MI.	1,281,800
Stark Hsg. Auth., 1800 W. Tuscarawas, Canton, OH.	4,805,600
Warren Co. Hsg. Auth., 990 E. Ridge Dr., Box 63, Lebanon, OH.	4,521,500
VI—Ft. Worth Regional Office:	
Bernalillo Co. Hsg. Auth., 620 Lomas Blvd. NM, Albuquerque, NM.	2,079,100
Bexar Co. Hsg. Auth., 1405 N. Main, #240, San Antonio, TX.	2,270,000
Brownsville Hsg. Auth., 2606 Boca Chica Blvd., PO Box 4420, Brownsville, TX.	2,893,000
Copperas Cove Hsg. Auth., 701 Casa Circle, Copperas Cov, TX.	1,208,700
Corpus Christie Hsg. Auth. 3701 Ayers, Corpus Christi, TX.	2,442,000
Dallas Hsg. Auth., 2525 Lucas Dr., Dallas, TX.	5,909,650
	5,909,650
	4,180,700
El Paso Hsg. Auth., 1600 Montana, El Paso, TX.	4,002,750
Elsa Hsg. Auth., 309 W. Third, Elsa, TX.	2,486,000
Fenton Hsg. Auth., PO Box 310, Fenton, LA.	1,768,750
Houston Hsg. Auth., PO Box 2971, Houston, TX.	4,155,900
La Joya Hsg. Auth., PO Drawer H, La Joya, TX.	2,139,500
Las Cruces Hsg. Auth., 926 S. San Pedro, Las Cruces, NM.	2,640,250
Marksville Hsg. Auth., 100 N. Hillside Dr., Marksville, LA.	1,092,800
Mission Hsg. Auth., 906 E. Eighth, Mission, TX.	2,594,100
New Orleans Hsg. Auth., 918 Carondelet St., New Orleans, LA.	1,788,234
Plano Hsg. Auth., 1321 Ave. G, Plano, TX.	1,958,308
San Angelo Hsg. Auth., 115 W. First, San Angelo, TX.	1,766,000
San Antonio Hsg. Auth., 818 S. Flores, San Antonio, TX.	2,860,000
Seguin, Hsg. Auth., 516 Jefferson Ave., Seguin, TX.	690,600
Shreveport Hsg. Auth., 623 Jordan St., Shreveport, LA.	2,506,400
White River Reg. Hsg. Auth., PO Box 650, Melbourne, AR.	1,016,250
VII—Kansas City Regional Office:	
Cabool Hsg. Auth., 301 W. First St., Mountain Grove, MO.	807,900
Central Iowa Reg. HA, 1111 9th St., Suite 240, Des Moines, IA.	2,248,200
	1,395,000
Chanute Hsg. Auth., 110 S. Ronda La., Chanute, KS.	592,500
Eastern Iowa Reg. HA, Suite 330, Nesler Ctr., Dubuque, IA.	359,500
	269,100
	115,400
	386,400
Holcomb Hsg. Auth., PO Box 78, Holcomb, MO.	731,800
Iowa City Hsg. Auth., 410 E. Washington St., Iowa City, IA.	1,605,500
Knoxville Hsg. Auth., 305 S. 3rd St., Knoxville, IA.	640,500
Linn Hsg. Auth., Church St., Linn, KS....	376,200
Muscatine Hsg. Auth., 215 Sycamore, Muscatine, IA.	1,153,500
Salina Hsg. Auth., 469 S. Fifth, Salina, KS.	634,000
St. Joseph Hsg. Auth., 502 S. 10th St., St. Joseph, MO.	2,430,100
St. Louis Co. Hsg. Auth., 8865 Natural Bridge, St. Louis, MO.	3,626,000
West Plains Hsg. Auth., 302 Walnut, West Plains, MO.	2,278,500
VIII—Denver Regional Office:	
Adams Co. Hsg. Auth., 7190 Colorado Blvd., Commerce City, Co.	1,192,500
Cheyenne Hsg. Auth., 3304 Sheridan Ave., Cheyenne, WY.	806,350
Colorado Spr. Hsg. Auth., 30 S. Nevada, Colorado Springs, CO.	1,234,200
Denver Hsg. Auth., 1100 W. Colfax, Denver, CO.	1,192,500
Jefferson Co. Hsg. Auth., 1445 Holland St., Lakewood, CO.	1,192,500
Lakewood Hsg. Auth., 445 S. Allison Pkwy., Lakewood, CO.	1,234,200
Loveland Hsg. Auth., 2105 Maple Dr., Loveland, CO.	1,248,100
Salt Lake Co. Hsg. Auth., 1962 S. 200 E., Salt Lake City, UT.	1,206,100
Salt Lake City Hsg. Auth., 1800 SW Temple, Salt Lake City, UT.	1,169,100
Utah Co. Hsg. Auth., 257 E. Center St., Provo, UT.	386,100
	772,200
	1,184,500
WY Comm. Devel. Admin., PO Box 634, Casper, WY.	1,067,800
IX—San Francisco Regional Office:	

PHA name	Amount
Chandler Hsg. Auth., 127 N. Kingston St., Chandler, AZ.	8,191,550
Clark Co. Hsg. Auth., 5064 E. Flamingo Rd., Las Vegas, NV.	4,420,000 7,665,760
Hawaii Hsg. Auth., 1002 N. School St., Honolulu, HI.	4,664,000
LA Co. Hsg. Auth., Corporate Pl., Los Angeles, CA.	10,375,000
LA City Hsg. Auth., 515 Columbia Ave., Los Angeles, CA.	1,988,200 3,006,500 963,500 560,500 385,400 2,031,700 826,600
Mendocino Hsg. Auth., 405 W. Perkins, Ukiah, CA.	1,998,150 2,378,750
Phoenix Hsg. Auth., 920 E. Madison, Suite D, Phoenix, AZ.	7,952,000
Sacramento Co. Hsg. Auth., 630 "I" Street, Sacramento, CA.	8,550,000
Sacramento City HA, 630 "I" Street, Sacramento, CA.	8,550,000
S. Barbara City Hsg. Auth., 808 Laguna St., Santa Barbara, CA.	5,122,200
San Diego City Hsg. Auth., 1625 Newton Ave., San Diego, CA.	9,185,000
San Bernardino Co. HA, 1053 N. D St., San Benardino, CA.	9,276,600
Santa Clara Co. Hsg. Auth., 505 W. Julian, San Jose, CA.	2,163,000
Santa Cruz Hsg. Auth., 2160 41st Ave., Capitola, CA.	1,613,250
Tuscson Hsg. Auth., 1501 N. Oracle, Tucson, AZ.	1,922,500
X—Seattle Regional Office:	
Jackson Co. Hsg. Auth., 2231 Table Rock Rd., Medford, OR.	333,200 2,611,500
King Co. Hsg. Auth., 15455 65th Ave., S. Seattle, WA.	3,054,400
Nampa Hsg. Auth., 1703 Third St, N., Nampa, ID.	929,250
Othello Hsg. Auth., 335 N. Third, Othello, WA.	1,206,750
Pierce Co. Hsg. Auth., 603 S. Polk St., Taxoma, WA.	3,054,400
Portland Hsg. Auth., 135 SW Ash, #400, Portland, OR.	1,706,000
Spokane Hsg. Auth., W. 55 Mission #104, Spokane, WA.	1,927,061
Tacoma Hsg. Auth., 1728 E. 44th St., Tacoma, WA.	2,978,050
Vancouver Hsg. Auth., 500 Omaha Way, Vancouver, WA.	2,559,000

Dated: January 14, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-1439 Filed 1-21-92; 8:45am]

BILLING CODE 4210-33

[Docket No. N-92-3229; FR 2947-N-02]

Indian Housing Development for Fiscal Year 1991 Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Indian Housing Development for Fiscal Year 1991. The announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Ralph Gonzalez, Director, Housing Development Division, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1015. The TDD number for the hearing impaired is (202) 708-0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide grants for the development of new Indian housing units.

The 1991 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on April 1, 1991 (56 FR 13378). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $210,022,133 was awarded to 104 Indian Housing Authorities for the development of 2,518 new units. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names addresses, and amounts of those awards as follows:

NOFA for Indian Housing Development for Fiscal Year 1991

Funding recipient	Amount
Region V:	
Bad River, P.O. Box 57, Odanah, WI 54861	$756,040 756,040 1,512,080
Bay Mills, Route 1, P.O. Box 3345, Brimley, MI 49715	716,900
Eastern Cherokee (Qualla), Acquoni Road, P.O. Box 174, Cherokee, NC 28719-1749	1,096,640
Fond Du Lac, 105 University Avenue, Cloquet, MN 55720	735,200
Grand Traverse, Route 1, Box 474, Suttons Bay, MI 49682	1,023,440
Hannahville Potowatomi, Hannahville B1 Road Community Center Wilson, MI 49896	693,550
Keweenaw Bay (Ojibwa), P.O. Box 615, Baraga, MI 49908	714,380
Lac Vieux Desert, P.O. Box 446, Watersmeet, MI 49969	714,390
Mashantucket West. Pequot, P.O. Box 160, Indiantown Road Ledyard, CT 06339	1,223,410
Mississippi Band Choctaw, P.O. Box 6088, Choctaw Branch, Philadelphia, MS 39350	1,163,534
Mowa Band of Choctaw, P.O. Box 268, McIntosh, AL 36553	1,698,000
Oneida Indian Nation, 101 Canal Street, Canastota, NY 13032	2,290,066
Oneida Tribe of Wisconsin, P.O. Box 68, Oneida, WI 54155	756,040
Paucatuck Eastern Pequot, 935 Lantern Hill Road, Ledyard, CT 06339	1,261,204
Penobscot, Indian Island, P.O. Box 498, Old Town, ME 04668	721,330
Pleasant Pt. Passamaquoddy, P.O. Box 339, Perry, ME 04667	778,415
Poarch Band of Creek, Route 3, P.O. Box 243-A, Atmore, AL 36502	816,365
Red Lake, P.O. Box 219, Highway 1 East, Red Lake, MN 56671	735,200
Sac and Fox, Route 2, Box 56C, Tama, IA 52339	686,600
Saginaw Chippewa, 2451 Nish-Na-Be-Anong Road, Mt. Pleasant, MI 48858	644,450
Saint Croix, P.O. Box 347, Hertel, WI 54845	756,040
Saint Regis (Akwesasne), Route 37, P.O. Box 540, Hogansburg, NY 13655	1,124,810
Sault Sainte Marie, 2218 Shunk Road, Sault Ste. Marie, MI 49783	969,665
Seminole, 3101 Northwest 63rd Avenue, Hollywood, FL 33024	570,550 533,916
Seneca Nation, 50 Iroquois Drive, Irving, NY 14081	1,366,705
White Earth, P.O. Box 436, White Earth, MN 56591	735,200 735,200
Wisconsin Potawatomi, P.O. Box 346, Crandon, WI 54520	810,520
Region VI:	
Louisiana-Coushatta, P.O. Box 818, Elton, LA 70532	1,154,200
Delaware, P.O. Box 334, Chelsea, OK 74647	1,096,490
Apache, P.O. Box 1172, Anadarko, OK 74647	1,154,200
Kaw, P.O. Box 371, Newkirk, OK 74647	1,154,200
Absentee-Shawnee, P.O. Box 425, Shawnee, OK 74801	1,154,200
Absentee-Shawnee, P.O. Box 425, Shawnee, OK 74801	1,154,200
Seneca-Cayuga, P.O. Box 1304, Miami, OK 74354	1,154,200
Cherokee, P.O. Box 1007, Tahlequah, OK 74474	8,656,500
Choctaw, P.O. Box G, Hugo, OK 74743	5,771,000
Pawnee, P.O. Box 408, Pawnee, OK 74058	560,610
Region VIII:	
Standing Rock, P.O. Box 484, Fort Yates, ND 58538	1,902,330
Oglala Sioux, P.O. Box C, Pine Ridge, SD 57770	4,277,054
Chippewa Cree, P.O. Box 615, Box Elder, MT 59521	1,888,397
Utah Paiute, 600 North, 100 East, Cedar City, UT 84720	1,342,980
Ute Mountain Ute, General Delivery, Towaoc, CO 81334	1,613,767
Oglala Sioux, P.O. Box C, Pine Ridge, SD 57770	2,519,350
Ute Mountain Ute, General Delivery, Towaoc, CO 81334	1,027,455
Crow Creek, P.O. Box 655, Fort Thompson, SD 57339	951,564

Funding recipient	Amount
Flandreau, P.O. Box 328, Flandreau, SD 57028	1,502,580
Fort Peck, P.O. Box 667, Poplar, Montana 59255	2,353,542
Wind River, P.O. Box 327, Fort Washakie, WY 82514	2,144,958
Crow Tribal, P.O. Box 99, Crow Agency, Montana 59022	2,144,958
Crow Creek, P.O. Box 655, Fort Thomspon, SD 57339	952,325
Rosebud, P.O. Box 69, Rosebud, SD 57570	1,857,550
Turtle Mountain, P.O. Box 620, Belcourt, ND 58316	1,360,455
Winnebabo, Winnebago, NE 68071	886,290
Salish-Kootenai, P.O. Box 36, Pablo, MT 59855	1,413,945
Region IX:	
All Mission-La Jolla, 1523 E. Valley Pkwy., Escondido, CA 92027	539,383
MODOC LASSEN-Grindstone, P.O. Box 1172, Anadarko, OK 73005	1,059,973
Tule River, P.O. Box 748, Porterville, CA 93257	2,674,766
All Mission-Barona, 1523 E. Valley Pkwy., Escondido, CA 92027	1,679,001
Quechan, P.O. Box 650, Yuma, AZ 95364	1,877,771
All Mission-San Pasqual, 1523 E. Valley Pkwy., Escondido, CA 92027	2,870,262
All Mission-Viejas, 1523 E. Valley Pkwy., Escondido, CA 92027	957,596
All Mission-Torres Martinez, 1523 E. Valley Pkwy., Escondido, CA 92027	753,761
All Indian-Sandia, P.O. Box 35040, Station D, Albuquerque, NM 87176	1,387,227
White Mountain, P.O. Box 1270, Whiteriver, AZ 85941	5,783,449
All Indian-Zia, P.O. Box 35040, Station D, Albuquerque, NM 87176	1,694,358
Tule River, P.O. Box 748, Porterville, CA 93257	2,174,050
All Mission-La Jolla, 1523 E. Valley Pkwy., Escondido, CA 92027	1,252,825
All Mission-Pauma, 1523 E. Valley Pkwy., Escondido, CA 92027	523,242
White Mountain, P.O. Box 1270, Whiteriver, AZ 85941	5,729,804
Fallon, 8955 Mission Rd., Fallon, NV 89406	1,518,693
All Mission-Morongo, 1523 E. Valley Pkwy., Escondido, CA 92027	1,437,177
All Mission-Rincon, 1523 E. Valley Pkwy., Escondido, CA 92027	1,001,258
All Mission-Rincon, 1523 E. Valley Pkwy., Escondido, CA 92027	1,369,507
Pyramid Lake, P.O. Box 213, Nixon, NV 89424	3,580,166
Northern Pueblos-San Ildefonso, P.O. Box 3502, Pojoaque, NM 87501	1,446,309
Pascua Yaqui, 4720 W. Calle Tetakusim, Tucson, AZ 85746	3,085,688
Walker River, P.O. Box 238, Schurz, NV 89427	1,026,150
Hoopa, P.O. Box 1285, Hoopa, CA 95546	3,319,108
All Mission-Soboba, 1523 E. Valley Pkwy., Escondido, CA 92027	560,628
Hualapai, P.O. Box 8, Peach Springs, AZ 86434	2,719,061
Karuk, P.O. Box 1206, 351 Oberlin Road, Yreka, CA 96097	1,800,587
Northern Pueblos-Nambe, P.O. Box 3502, Pojoaque, NM 87501	1,010,391
Northern Pueblos-Tesuque, P.O. Box 3502, Pojoaque, NM 87501	711,603
San Carlos, P.O. Box 187, San Carlos, AZ 85550	2,952,254
Washoe, 1568 Watasheamu Dr., Gardenerville, NV 89410	1,779,115
Pascua Yaqui, 4720 W. Calle Tetakusim, Tucson, AZ 85746	3,016,831
Reno Sparks, 15-A Reservation Rd., Reno, NV 89502	1,748,586
Fallon, 8955 Mission Rd., Fallon, NV 89406	1,224,945
Navajo-Coyote Canyon, NM	1,863,996
Navajo-Fort Defiance, AZ, P.O. Box 387, Window Rock, AZ 86515	2,939,066
Hopi, P.O. Box 698, Second Mesa, AZ 86043	1,727,637
Navajo-Crownpoint, NM	3,484,589
Region X:	
Quileute, P.O. Box 159, La Push, WA 98350	2,327,000
Lummi, 3220 Balch Road, Bellingham, WA 98226	3,436,000
Warm Springs, P.O. Box 177, Warm Springs, OR 97761	3,320,000
Makah, P.O. Box 868, Neah Bay, WA 98357	2,236,000
Lower Elwha, 1705 Stratton Road, Port Angeles, WA 98362	1,948,000
Coeur D'Alene, P.O. Box 267, 1005 Eighth Street, Plummer, ID 83851	1,176,200

Dated: January 14, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 91-1440 Filed 1-21-91; 8:45 am]

BILLING CODE 4210-33-M

[Docket No. N-92-3194; FR-2917-N-02]

Public Housing Drug Elimination, Technical Assistance Program; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice for the Public Housing Drug Elimination, Technical Assistance Program; Fund Availability—FY 1991. The announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Elizabeth Cocke or David Tyus, Office for Drug Free Neighborhoods (ODFN), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-1197 or (202) 708-3502. The TDD number for the hearing impaired is (202) 708-0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide short-term technical assistance to better prepare public and Indian housing and resident organization officials to confront the widespread abuse of controlled substances in public housing communities.

The 1991 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on April 11, 1991 (56 FR 14828). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $72,700 was awarded to 12 consultants to provide short-term technical assistance to applicant Public Housing Agencies, Indian Housing Authorities, and resident organizations. The assistance is to aid housing authorities and resident organizations in assessing their drug-related problems; implementing anti-drug programs; and improving the applicant's ability to respond to drug problems in targeted public housing. The balance of the announced funds shall remain available under the NOFA until expended. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of the awards as follows:

Public Housing Drug Elimination, Technical Assistance Program; Fund Availability—FY 1991 (Fourth Quarter)

Funding recipient	PHA	Amount approved
Lexie Williams, 1177 Dominion Court, Port Orange, FL 32119	Housing Authority of the City of Daytona Beach, 118 Cedar Street, Daytona Beach, FL 32114.	$5,300
George King, 2364 SE 50 Terrace, Ocala, FL 32671	Ocala Housing Authority, 1415 N.E. 32nd Terrace, Ocala, FL 32670	9,000
Anita Dunston, 7312 Ewing Place, Raleigh, NC 27604	So. Delta Reg. Housing Auth, P.O. Box 1120, Greenville, MS 38702	5,300

Funding recipient	PHA	Amount approved
Quadel Consulting Corp., 1250 Eye St. NW., Suite 330, Washington, DC 20005.	Chattanooga Housing Authority, P.O. Box 1486, Chattanooga, TN 37401	7,700
Isaac Montoya, Affiliated Systems Corp., 1200 Post Oak Blvd., Houston, TX 77056.	Housing Authority of the City of Las Cruces, 926 So. San Pedro St., Las Cruces, NM 88001.	5,200
Isaac Montoya, Affiliated Systems, 1200 Post Oak Blvd., Houston, TX 77056.	Housing Authority of the City of Alamogordo, P.O. Box 336, Alamogordo, NM 88310.	5,200
Janice Yates, Route 3, Box 35, Wellston, OK 74881	Housing Authority of the City of McAlester, 620 W. Kiowa, McAlester, OK 74502.	1,900
Nikki Johnson, Daystar Associates, 2311 E. Burnside, Portland, OR 97214	Housing Authority of the County of Clackamas, 13930 South Gain Street, Oregon City, OR 97045.	7,500
Helen Liere, Vantage Consulting, 357-A Warner Milne Rd., Oregon City, OR 97045.	Housing Authority and Community Services Agency, of Lane County, 300 West Fairview Dr., Springfield, OR 97477.	10,000
Shirley Robbins, P.O. Box 4479, Williams Lake, B.C., Canada V2G 2V5	Tlingit Haida Regional Housing Authority, P.O. Box 32237, Juneau, AK 99803.	2,800
Lena Paul, P.O. Box 4145, Williams Lake, B.C., Canada V2G 2V5	Tlingit Haida Regional Housing Authority, P.O. Box 32237, Juneau, AK 99803.	2,800
Safe Streets Campaign, Lyle Quasim, Exec. Dir., 934 Broadway, Tacoma, WA 98402.	Housing Authority of the City of Tacoma, 1728 E. 44th St., Tacoma, WA 98404.	10,000

Dated: January 14, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-1441 Filed 1-21-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intentional Introductions Policy Review Committee Public Meeting

AGENCY: Department of the Interior, Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Intentional Introductions Policy Review Committee, a committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.). The meeting is open to the public. Interested persons may make oral statements to the Committee or may file written statements for consideration. The meeting will provide attendees with additional background on the mandate of the Committee; review the options identified through written statements; and provide interested parties the opportunity to present additional options or elaborate on any options previously identified. To facilitate discussion at the meeting, written statements submitted to the Committee should: (1) Identify approaches (e.g., voluntary guidelines, model state codes, evaluation protocols, or other means) which substantially reduce the risk of adverse consequences associated with intentional introduction of aquatic organisms; (2) evaluate how and to what extent those approaches will reduce risks; and (3) suggest criteria and techniques the Committee should use to evaluate all approaches identified.

DATES: Interested parties may submit written statements to the Committee, at the address listed below, on or before January 31, 1992. This scoping meeting will be held on February 26, 1992, beginning at 9:00 a.m. with registration during the half-hour preceding the meeting. The meeting is scheduled to end at 1 p.m., but may be extended into the afternoon if warranted.

PLACE: The meeting will be held in the auditorium of the Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

ADDRESS: Intentional Introductions Policy Review Committee, c/o Dr. Dennis R. Lassuy, U.S. Fish and Wildlife Service (820 ARLSQ), U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION: Contact Dr. Dennis Lassuy at (703) 359-1718.

Dated: January 16, 1992.

Gary Edwards,

Assistant Director, Fish and Wildlife Service.

[FR Doc. 92-1568 Filed 1-21-92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf, Availability Proposed Notice of Sale Central Gulf of Mexico Oil and Gas Lease Sale 139

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of Proposed Notice of Sale, Central Gulf of Mexico, Oil and Gas Lease Sale 139.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notice of Sale for Sale 139, Central Gulf of Mexico, may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, or by telephone (504) 736-2519.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is scheduled for mid-1992.

This Notice of Availability is hereby published, pursuant to 30 CFR 256.29(c), as a matter of information to the public.

Dated: January 15, 1992.

Scott Sewell,

Director, Minerals Management Service.

[FR Doc. 92-1473 Filed 1-21-92; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service, Interior.

Mississippi River Corridor Study Commission Meeting

AGENCY: National Park Service, Interior

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act, 5 U.S.C. appendix (1988).

DATES AND TIMES: March 2, 8 a.m. to 5 p.m., March 4, 8 a.m. to 12 noon.

ADDRESSES: Washington Plaza Hotel, Massachusetts and Vermont Avenues, NW., Washington, DC 20005.

The business meeting will be open to the public. Space and facilities to

accommodate members of the public are limited and persons will be accommodated on a first come, first served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Region, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: David N. Given, Associate Regional Director, Planning and Resource Preservation, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102, (402) 221–3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by Public Law 101–398, September 28, 1990.

Dated: January 9, 1992.

Don H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 92–1524 Filed 1–21–92; 8:45 am]

BILLING CODE 4310–70–M

National Park System Advisory Board; Meeting

AGENCY: National Park Service.

ACTION: Notice of meeting of History Areas Committee of Advisory Board.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board will be held at 9 a.m. at the following location and date.

DATE: February 6, 1992.

LOCATION: National Park Service Director's Conference Room 3119, Main Interior Building, 1849 C Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Benjamin Levy, Senior Historian, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Telephone (202) 343–8164, or FTS 343–8164.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board is to evaluate studies of historic properties in order to advise the full National Park System Advisory Board meeting on February 26, 1992 of the qualifications of properties being proposed for National Historic Landmark designation, and to recommend to the full Board those properties that the Committee finds meet the criteria of the National Historic Landmarks Program. The members of the History Areas Committee are:

Dr. Holly Anglin Robinson, Chairperson.
Mr. Robert Burley, FAIA.
Mrs. Anne Walker.
Judge Robert Flynn Orr.
Lt. Governor Connie B. Binsfeld.
Mr. Paul F. Cole.
Dr. Stuart Kaufman.
Mr. F.C. Duke Zeller.

The meeting will include presentations and discussions on the national historic significance and the integrity of a number of properties being nominated for National Historic Landmark designation. These nominations include 3 architectural properties located in the District of Columbia, New York, and Pennsylvania; 6 maritime resources in Iowa, Kansas, Michigan, South Carolina, and Washington; 1 property being considered for archeology located in West Virginia; 4 sites relating to the women's history theme study in California, Massachusetts, and New York; a World War II site in Arkansas; a site in Maryland dealing with Naval history; a recreation site in Pennsylvania; a Louisiana site relating to agriculture; an engineering site in New York; and an industrial site in Pennsylvania.

The Committee will consider a potential National Historic Trail in Alabama in order to recommend to the full Board whether the potential trail is of National historic significance. Also to be discussed will be at least seven properties proposed for study as potential additions to the National Park System; for these properties the Committee will determine from existing information on hand whether to urge that the full Board recommend that the properties be fully studied. The properties now on the agenda are located in Idaho, Kansas, Maryland, Massachusetts, Montana, New York, and Virginia. The Committee will also be conducting an alternatives study for the preservation and interpretation of historic resources at Dutch Harbor Naval Operating Base and U.S. Defenses, Unalaska, Alaska to determine whether to make recommendations to the full Board regarding transmittal of a report on this property to Congress.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Committee a written statement concerning matters to be discussed. Written statements may be submitted to the Senior Historian, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013–7127.

Dated: January 14, 1992.

Rowland T. Bowers,

Deputy Associate Director, Cultural Resources, National Park Service, WASO.

[FR Doc. 92–1523 Filed 1–21–92; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

[WO–220–02–4320–12]

Grazing Administration—Exclusive of Alaska; Grazing Fee for the 1992 Grazing Year

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of establishment of grazing fee for the 1992 grazing year.

SUMMARY: The Secretary of the Interior hereby announces that the fee for livestock grazing for the 1992 grazing year is $1.92 per animal unit month on public lands administered by the Bureau of Land Management.

EFFECTIVE DATE: March 1, 1992, through February 28, 1993.

ADDRESSES: Any inquiries should be sent to Director (220), Bureau of Land Management, Main Interior Bldg., rm. 5650, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Donald D. Waite, (202) 653–9210.

SUPPLEMENTARY INFORMATION: Grazing Fees for the use of public rangelands are established and collected under the authority of section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315), and Executive Order 12548 of February 14, 1986. The grazing fees are computed by the formula established in 43 CFR 4130.7–1.

Dated: January 14, 1992.

Dave O'Neal,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 92–1452 Filed 1–21–92; 8:45 am]

BILLING CODE 4310–84–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information, related form and explanatory material

may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0038), Washington, DC 20503, telephone 202–395–7340.

Title: Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources 30 CFR part 783.

OMB Number: 1029–0038.

Abstract: Applicants for underground coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed underground coal mining activities.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Underground Coal Mining Operators.

Estimated Completion Time: 16 hours.

Annual Responses: 1,160.

Annual Burden Hours: 18,076.

Bureau clearance officer: Andrew F. DeVito, (202) 343–5150.

Dated: January 13, 1992.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 92–1450 Filed 1–21–92; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Lodging of consent Decree

In accordance with section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622, and the policy of the Department of Justice, 29 CFR 50.7, notice is hereby given that a partial consent decree was lodged in the United States District Court for the Sourthern District of Texas on December 2, 1991, in settlement of the allegations in the amended complaint in the action styled *United States* v. *Cumberland International Corporation, et al.* This partial consent decree settles the government's claims brought pursuant to section 107 of CERCLA, 42 U.S.C. 9607, for costs incurred by the United States because of actual or threatened releases of hazardous substances from the Crystal chemical Company Site located in Houston, Texas.

Under the terms of the proposed partial consent decree, the defendants agree to pay the United States three million dollars ($3,000,000) for costs incurred by the United States relating to the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Cumberland International Corporation, et al.* D.J. Ref. 90–11–3–7A.

The proposed consent decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004, 202–347–2072. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $5.50 (25 cents per page reproduction costs) payable to consent Decree Library. The proposed Consent Decree may also be reviewed at the Environmental Protection Agency.

EPA Region VI

Contact: Michael Barra or Anne Miller, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 655–2120.

Roger B. Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–1449 Filed 1–21–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

Notice is hereby given that on January 13, 1991, a proposed Consent Decree was lodged with the United States District Court for the Southern District of Illinois in *United States and the State of Illinois* v. *Village of Sauget, Illinois,* C.A. No. 88–5131, an action brought pursuant to section 309 of the Clean Water Act ("the Act"), 33 U.S.C. 1319, alleging violations of the Act, and Sauget's National Pollution Discharge Elimination Permit. This action concerns the American Bottoms Regional Wastewater Treatment Facility, located in Sauget, Illinois. The proposed Consent Decree would resolve the violations alleged in the United States' and the State of Illinois' second amended complaint.

The Department of Justice will receive comments on the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and the State of Illinois* v. *Village of Sauget, Illinois,* D.J. Ref. No. 90–5–1–1–3036. The proposed Consent Decree may be examined at the Office of the United States Attorney (Civil Division) for the Southern District of Illinois, 9 Executive Drive, suite 300, Fairview Heights, Illinois 62208, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 (202–347–7829). A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $22.00 (25 cents per page reproduction costs) payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–1448 Filed 1–21–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–25,792 and TA–W–25,792A]

Bergman Knitting Mills, Philadelphia, PA and NY; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 6, 1991 applicable to all workers of Bergman Knitting Mills, Philadelphia, Pennsylvania.

The Department is amending the certification to include the New York, New York location of Bergman Knitting Mills.

New information received by the Department shows that the New York City office ceased operations in November 1991 and all Bergman employees were laid off by November 1991.

The amended notice applicable to TA–W–25,792 is hereby issued as follows:

All workers of Bergman Knitting Mills, Philadelphia, Pennsylvania and New York, New York who became totally or partially separated from employment on or after April 22, 1990 are eligible to apply for adjustment assistance.

Signed at Washington, DC this January 10, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-1494 Filed 1-21-92; 8:45 am]

BILLING CODE 4510-30-M

TA-W-25,933. Dekalb Energy Co., Denver, CO; TA-W-25,933A Operations at Various Other Locations in Colorado; TA-W-25,933B Operations at all Locations in Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 14, 1991 applicable to all workers of Dekalb Energy Company in Denver, Colorado and in various other locations in the state of Colorado.

The Department is amending the certification to include all locations in the State of Texas.

New information received by the Department shows that the Dekalb workers in Texas are under the control of the Denver, Colorado headquarters and that worker separations occurred at the Dekalb Energy Company in Texas because of reduced exploration and drilling activity.

The amended notice applicable to TA-W-25,933 is hereby issued as follows:

"All workers of Dekalb Energy Company, Denver, Colorado (TA-W-25,933) and in various other locations throughout the State of Colorado (TA-W-25,933A) and at all locations in Texas (TA-W-25,933B) who became totally or partially separated from employment on or after January 1, 1991 are eligible to apply for adjustment assistance."

Signed at Washington, DC this January 10, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-1493 Filed 1-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,516]

H.H. Cutler Co., Grand Rapids, MI; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 4, 1991 in response to a worker petition which was filed on behalf of workers at H.H. Cutler Company, Grand Rapids, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 13th day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-1495 Filed 1-21-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Federal Network Council Advisory Committee; Notice of Amendment

A Federal Advisory Networking Council Advisory Committee (FNCAC) meeting is being held on January 29, 1992, 9 a.m. to 4 p.m.

The location of the FNCAC meeting has been changed from the National Science Foundation to the Ramada Inn, 1430 Rhode Island Avenue, NW., Washington, DC 20005 (in the Cambridge Room, 2nd floor).

For additional information, contact Lynn Behnke, Executive Assistant, Federal Networking Council, 4001 N. Fairfax Drive, suite 200, Arlington, VA 22203-1614. Telephone: (703) 522-6410.

The notice for this meeting originally appeared in the January 9, 1992 issue of the **Federal Register**, Vol. 57, No. 6, p. 935.

January 15, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-1464 Filed 1-21-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-3392]

Finding of no significant impact and notice of opportunity for a hearing amendment of source materials; license no. SUB-526; Allied-Signal, Inc.; Metropolis, Illinois

The U.S. Nuclear Regulatory Commission (the Commission) is considering the amendment of Source Materials License No. SUB-526 for the Allied-Signal, Inc., facility located in Metropolis, Illinois, to authorize the release of calcium fluoride for use in the steel-making industry.

Summary of the Environmental Assessment

Indentification of the Proposed Action: The proposed action is to ship the synthetic CaF_2 to briquette plants where it will be blended with natural CaF_2 (fluorspar) to form briquettes used as a fluxing agent in the steel-making industry. The synthetic CaF_2 is a byproduct of Allied's uranium hexafluoride (UF_6) conversion operation and contains trace amounts of natural uranium, thorium-230, radium-226, and arsenic.

The Need For The Proposed Action: Currently, Allied is authorized to transport synthetic CaF_2 to an Allied hydrofluoric acid (HF) production plant where it is blended with natural CaF_2 for routine HF production. Allied produces more CaF_2 than can be used in HF production, and the proposed action would authorize the recycle of the excess synthetic CaF_2 instead of Allied having to dispose of it. Also, the use of the synthetic CaF_2 will decrease the amount of natural CaF_2, a non-renewable natural resource, currently being used in the production of steel.

Environmental Impacts of the Proposed Action: The Allied UF_6 conversion process produces appropriately 4,000 to 6,000 tons of CaF_2 (dry weight basis) annually. When the CaF_2 is produced, it has a water content of approximately 20 percent.

For the most recent three-year period (1988-1990), the natural uranium content of the CaF_2 has averaged 131 pCi/gm (dry weight basis). This corresponds to a uranium content of 105 pCi/gm for CaF_2 with a 20 percent moisture content.

All CaF_2 produced at Allied is sampled and analyzed for uranium content. Currently at Allied, if the uranium concentration of the CaF_2 is less than 338.5 pCi/gm or 500 parts per million, the CaF_2 is added to the warehouse inventory. If the concentration is greater than 338.5 pCi/gm, then the CaF_2 is either disposed of as low-level radioactive waste or it is blended into the warehouse inventory, as long as doing so will not cause the uranium content of the inventory to exceed 338.5 pCi/gm.

A recent comparison by Allied of synthetic CaF_2 and natural fluorspar (CaF_2) follows:

Element or isotope	Synthetic CaF_2	Natural CaF_2
Natural Uranium	105 pCi/gm	18 pCi/gm.
Radium-226	0.26 pCi/gm	1.4 pCi/gm.
Thorium-230	1.9 pCi/gm	2.1 pCi/gm.
Arsenic	483 parts per million.	292 parts per million.

The license concluded that the only impurity that may be of public or worker

impact is the natural uranium. The levels of radium-226 and thorium-230 detected in the synthetic CaF_2 are comparable to levels found in the natural CaF_2. The airborne levels of arsenic detected in Allied's synthetic CaF_2 warehouse are less than 1 percent of the Occupational Safety and Health Administration (OSHA) permissible exposure limit of 0.010 mg/m³.

The level of natural uranium is approximately six times greater in the synthetic CaF_2 than in the natural CaF_2. However, the information supplied by the licensee shows that the synthetic CaF_2's natural uranium concentration is comparable to levels of natural uranium found in materials to which the general population is routinely exposed, such as Florida phosphate rocks (120 pCi/gm), Tennessee bituminous shale (50–80 pCi/gm), and cattle feed supplements (up to 122 pCi/gm).

A radiation dose assessment has been performed by Allied to determine the critical group and exposed general population doses which might result from the recycle of the synthetic CaF_2. The following table summarizes the maximum dose expected for individuals in the critical group and for the exposed general population. Allied used the following assumptions to complete the dose assessment:

1. Natural uranium is the only radioactive material present in the synthetic CaF_2. The concentration of the natural uranium is 105 pCi/gm. The solubility fraction of the natural uranium is 6.5 percent Class D and 93.5 percent Class W, as determined from lung fluid solubility testing. The particle size is one micron.

2. The finished briquettes are composed of 25 percent synthetic CaF_2.

3. The concentration of total dust in the briquetting work is 15 mg/m³ of which 25 percent is synthetic CaF_2. The briquetting plant worker wears a one-half face respirator as required by OSHA.

4. Based on the briquettes containing 25 percent synthetic CaF_2 and a distance of 1 meter, the external exposure rate to the briquette plant operator is 0.055 μR/hour.

Critical group	No. of persons	Total [1] mrem/year
Truck driver—Allied to loading dock.	2	5.2E-2
Clamshell operator at Metropolis dock.	1	1.3E-1
Clamshell operator at Ohio dock.	1	6-6E-2
Clamshell operator at Indiana dock.	1	6.6E-2
Truck driver—Ohio dock to briquette plant.	2	2.2E-1
Truck driver—Indiana dock to briquette plant.	2	1.9E-1
Briquette plant operator	1	7.6E-1
Truck driver—Briquette plant to steel mill.	2	8.3E-2
Total Critical Group Collective Dose.		1.6

[1] Total dose=Deep Dose Equivalent plus the Committed Effective Dose Equivalent times the number of persons exposed.

Exposed general population	No. of persons	Total mrem/year
CaF_2 truck route—Metropolis.	70	8.69E-5
CaF_2 truck route—Ohio	700	4.51E-4
CaF_2 truck route—Indiana	140	9.02E-5
Briquette truck routes—Ohio and Indiana.	420	5.15E-4
Total General Population Collective Dose.		1.14E-3

The dose assessment also evaluated two credible accidents: The overturning of a dump truck load of synthetic CaF_2 enroute to the briquette plant could produce a total effective dose commitment of 0.0004 mrem to an emergency response worker; and the overturning of a dump truck of briquettes enroute to a steel mill could produce a total effective dose commitment of 0.00001 mrem to an emergency response worker.

While the staff agrees with Allied's conclusion that the briquette plant operator is the maximally exposed individual, an independent dose assessment was performed. Most of Allied's assumptions were used in this assessment, however, no credit was given for the respiratory protection worn by the briquette plant operator, and the Th-230 and Ra-226 concentrations were included.

Based on the staff's independent assessment, the briquette plant operator will receive a committed effective dose equivalent of 12.35 mrem per year and a deep-dose equivalent of 0.11 mrem per year. The total effective dose equivalent is 12.46 mrem per year. However, if the concentration of natural uranium in the synthetic CaF_2 is 338.5 pCi/gram, then the briquette plant operator's total effective does equivalent will be 40.17 mrem per year, which exceeds the 25 mrem per year limit found in 40 CFR 190. Therefore, to ensure the dose received shall be within all federal limits, the staff recommends that the concentration of uranium in the synthetic CaF_2 released to each briquette manufacturer not exceed the average of 212 pCi/gram for any consecutive 12-month period.

In addition, the staff calculated the dose to the briquette plant operator if only the natural CaF_2 was used to manufacture the briquettes. Many of the same assumptions Allied used to calculate the dose from synthetic CaF_2 were used except that the natural uranium, Ra-226, and Th-230 concentrations in natural CaF_2, listed above, were used; no protection factor was allowed, and all CaF_2 used in the briquette was natural CaF_2. From this dose assessment, it was determined that the briquette plant operator would receive a committed effective dose equivalent of 45.48 mrem per year. The committed dose effective equivalent that the briquette plant operator would receive using 25 percent synthetic CaF_2 and 25 percent natural CaF_2 would drop to 35.20 mrem per year, of which 12.46 mrem would be from the synthetic CaF_2 and 22.79 mrem would be from the natural CaF_2. Therefore, by manufacturing the briquettes with 25 percent synthetic CaF_2 and 25 percent natural CaF_2, the dose to the briquette operator would be lower than if only natural CaF_2 was used. Based on lung solubility tests performed by the licensee, the uranium in the synthetic CaF_2 is more soluble in the body than the uranium in the natural CaF_2. Therefore, the biological clearance rate of the uranium in the synthetic CaF_2 is more rapid, thereby resulting in a lower committed effective dose equivalent.

After the briquettes are charged into the slag on the top of the steel melt, the amount of uranium contained in the briquettes is not transferred to the steel but remains in the slag.[1], [2] Members of the general public working with the finished steel products will receive no radiation exposure as a result of the synthetic CaF_2 being used in the briquettes.

The licensee calculated that the briquettes will comprise not more than 5 percent of the total slag weight. The final uranium content in the slag will be 1.6 pCi/gram. Based on this uranium content, Allied estimated that the dose to a member of the public from any foreseeable use of the steel mill slag will not exceed an effective dose equivalent of 0.02 mrem/year.

Over 90 percent of the slag generated by the steel mills is stored at the mills in U.S. Environmental Protection Agency (EPA)-approved storage areas with both dusting and leaching conditions

[1] Mautz E. W., et.al., "Uranium Decontamination of Common Metals by Smelting—A Review," Document No. NLCO–1113, February 1975.

monitored. Occasionally, steel mill slag is used as a minor constituent in cement manufacturing or as road fill for highway construction where drainage, subsoil, and paving circumstances permit. The level of uranium contained in the slag is so small that any environmental effects from storage, road fill, or cement manufacturing would be insignificant.

Conclusion: The staff's dose assessment performed for the proposed action demonstrates that the doses received by members of the critical group and the exposed general population was well below the dose limits of 100 mrem/year and 25 mrem/year, as specified in 10 CFR part 20 (56 FR 23360–474) and 40 CFR part 190, respectively. To ensure the dose limits are not exceeded, the staff recommends that the uranium concentration of the synthetic CaF2 shall not exceed 212 pCi/gram averaged over any consecutive 12-month period. The environmental impact from using the synthetic CaF_2 is insignificant. The uranium content in the slag will be less than the 10 pCi/gram limit for unrestricted release of natural uranium set in Option 1 of the staff's Branch Technical Position, "Disposal and On-site Storage of Thorium or Uranium Wastes from Past Operations" (46 FR 52061–63). With Allied limiting the concentration of natural uranium in the synthetic CaF_2 to be sold to the steel-making industry to less than 338.5 pCi/gram, then the limit set in 10 CFR 40.13(a) for unimportant quantities of source material will also not be exceeded. Therefore, the staff concludes that there will be no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action: The alternative to the proposed action would be the denial of the proposed action. By denying approval of the amendment, Allied would not be able to sell the synthetic CaF_2 to the steel-making industry. While this would eliminate any possible negative impact to human health and safety due to the trace amounts of natural uranium in the CaF_2, there would be an increased burden placed on the environment because the synthetic CaF_2 would have to be disposed of, probably in a landfill. Furthermore, the amount of natural CaF_2 currently being extracted from natural sources would not be reduced.

Agencies and Persons Consulted: Staff utilized the amendment application dated July 1, 1991, and supplementary information dated October 28, 1991.

Finding of No Significant Impact: The Commission has prepared an Environmental Assessment related to the amendment of Source Materials License No. SUB–526. On the basis of this assessment, the Commission has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this amendment may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register** be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); on the licensee (Allied-Signal, Inc., P.O. Box 430, Metropolis, Illinois 62960); and must comply with the requirements for requesting a hearing set forth in the Commission's regulation, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the requestor must describe in detail, are:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 14th day of January, 1992.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 92–1503 Filed 1–21–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–348]

Southern Nuclear Operating Co., Inc.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–2 issued to Southern Nuclear Operating Company, Inc. (the licensee), for operation of the Joseph M. Farley Nuclear Plant (Farley), Unit 1, located in Houston County, Alabama. The amendment request was submitted by Alabama Power Company, however, subsequent to the submittal, Amendment No. 90 to Facility Operating License No. NPF–2 authorized Southern Nuclear Operating Company, Inc., to become the licensed operator. The change to Southern Nuclear Operating Company, Inc., as the operator of Farley was implemented on December 23, 1991.

The proposed amendment would reduce the steam generator primary-to-secondary leakage limit for Farley, Unit 1. The current technical specification allows one gallon per minute (1440 gallons/day) total primary-to-secondary leakage through all steam generators and 500 gallons per day through any one steam generator. This amendment request proposes to reduce the leakage limit to 420 gallons per day total primary-to-secondary leakage through all steam generators and 140 gallons per day through any one steam generator.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Farley Unit 1 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The license amendment reduces the primary-to-secondary leakage limit for steam generators. No physical changes will be made to the plant. A reduction in the leakage limit will result in more conservative operation of the plant requiring an earlier shutdown for steam generator leakage. As a result, neither the probability or consequences of any previously evaluated accident will be increased.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the reduced primary-to-secondary leakage limit will not introduce any physical changes to the plant. Use of the reduced leakage limit will result in a more conservative response to primary-to-secondary steam generator leakage.

3. The proposed license amendment does not involve a significant reduction in margin of safety.

The use of the reduced primary-to-secondary steam generator leakage limit will result in improved margin to steam generator tube failure. Reducing the allowed leakage limit to 140 gallons per day will result in more conservative operation of the plant since unit shutdown will be required at a lower leakage level.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publication Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 21, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a

hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment requests involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: Petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to James H. Miller, III, Esq., Balch and Bingham, P.O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201, attorney for the licensee.

Normally filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 29, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 306, Dothan, Alabama 36302.

Dated at Rockville, Maryland, this 14th day of January 1992.

For the Nuclear Regulatory Commission.

Stephen T. Hoffman,

Project Manager, Project Directorate II/I, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–1506 Filed 1–21–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on February 5, 1992, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 5, 1992—2 p.m. until 5:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Raymond F. Fraley (telephone 301/492–4516) between 7:30 a.m. and 4:15 p.m., EST. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 15, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–1498 Filed 1–21–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on February 5, 1992, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, February 5, 1992—8:30 a.m. until the conclusion of business

The Subcommittee will continue the discussion of the proposed revisions to 10 CFR part 100, Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," considered during the Subcommittee meeting on December 10, 1991.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the nuclear industry, their respective consultants, and other interested persons regarding this view.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 15, 1992.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–1499 Filed 1–21–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Systematic Assessment of Experience; Meeting

The Subcommittee on Systematic Assessment of Experience will hold a meeting on February 4, 1992, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, February 4, 1992—1 p.m. until the conclusion of business

The Subcommittee will discuss a draft paper on the status of the NRC's evaluation of accident sequence precursors.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made. During the initial portion of the meeting, the Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Thomas S. Rotella (telephone 301/492–8972) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 14, 1992.

Gary R. Quittschreiber,

Chief Nuclear Reactors Branch

[FR Doc. 92–1501 Filed 1–21–92; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 27, 1991, through January 9, 1992. The last biweekly notice was published on January 8, 1992 (57 FR 707).

Notice Of Consideration Of Issuance Of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 21, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket No. STN 50-528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of amendment request: December 24, 1991

Description of amendment request: The amendment request revises the technical specifications to be consistent with the reload safety analysis for operation in fuel cycle 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

Standard 1: Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Unit 1 Technical Specification Figures 3.2-2 and 3.2-2a will not increase the probability or consequences of an accident previously evaluated because the revisions are required to maintain consistency with the Unit 1, Cycle 4 safety analysis.

a) The Cycle 4 safety analyses have shown that when [Core Operating Limit Supervisory System] COLSS is in service and at least one [Control Element Assembly Calculators] CEAC is operable, Technical Specification 3.2.4a. provides adequate margin to [departure from nucleate boiling] DNB to accommodate the most limiting [Anticipated Operational Occurrence] AOO without violating the Specified Acceptable Fuel Design Limits (SAFDLs).

b) When neither CEAC is operable and COLSS is in service, the Core Protection Calculators (CPCs) cannot obtain the required position information to ensure that the SAFDLs will not be violated during an AOO. As a result of the re-evaluation of the limiting AOO for the Cycle 4 core design, Technical Specification 3.2.4b requires that the core power operation limit (POL), as calculated by COLSS, be reduced as currently indicated on Figure 3.2-1. This reduction in COLSS POL will ensure that the most limiting AOO will not result in a violation of the SAFDLs.

c) The proposed revision to Figure 3.2-2 accounts for the situation when COLSS is out of service but at least one CEAC is operable. In this case the Cycle 4 safety analyses has shown that by maintaining the CPC calculated [departure from nucleate boiling ratio] DNBR above the value shown in the revised figure, the limiting AOO will not result in a violation of the SAFDLs.

d) When COLSS and both CEACs are out of service, there must be additional margin in the initial CPC DNBR value to ensure that the limiting AOO will not result in exceeding a SAFDL. The evaluation of the Cycle 4 core design has shown that by maintaining the CPC calculated DNBR above the limits shown in proposed Figure 3.2-2a, the SAFDLs will not be exceeded during the most limiting AOO.

The non-loss of coolant accident (LOCA) transient analysis for the Single Reactor Coolant Pump Shaft Seizure/Sheared Shaft design basis event, as presented in Section 7.3.2 of the Reload Analysis Report (RAR), identified that the amount of predicted failed fuel has increased for that event over previous Unit 1 analysis. However, the revised predicted fuel failure of 4.32 [percent] is less than the 4.5 [percent] evaluated for this event in Unit 3, Cycle 3 analysis, and accepted by the NRC in the Safety Evaluation for that analysis dated May 20, 1991. Therefore, this does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2: Would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revisions to Unit 1 Technical Specification Figures 3.2-2 and 3.2-2a are required to make the Technical Specifications consistent with the Unit 1, Cycle 4 safety analyses. Therefore, the change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3: Would not involve a significant reduction in a margin of safety.

The revisions in the content of Figures 3.2.-2 and 3.2-2a are required to make the Technical Specifications consistent with the Cycle 4 safety analyses. Operation of the reactor within the limits of the revised figures will ensure that the SAFDLs are not exceeded during the most limiting AOO. The revision of these figures would therefore not involve a significant reduction in a margin of safety.

The non-LOCA transient analysis for the Single Reactor Coolant Pump Shaft Seizure/Sheared Shaft design basis event, as presented in Section 7.3.2 of the Reload Analysis Report (RAR), identified that the amount of predicted failed fuel has increased for that event over previous Unit 1 analysis from 3.79 [percent] to 4.32 [percent]. This is less than the 4.5 [percent] predicted fuel failure evaluated for this event in Unit 3, Cycle 3 analysis, and found acceptable by the NRC in the Safety Evaluation for Unit 3, Cycle 3 analysis dated May 20, 1991. The resultant radiological consequence is a two hour site boundary thyroid dose of less than 240 Rem, which is within 10 CFR 100 limits. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensees' analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999.

NRC Project Director: Theodore R. Quay

Arizona Public Service Company, et al., Docket Nos. 50-528, 50-529 and 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment request: December 26, 1991

Description of amendment request: The proposed amendments revise the technical specifications to allow replacement of existing 125V DC batteries with new batteries at each unit refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below: Standard 1: Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Class 1E DC system provides DC electric power to the Class 1E DC loads, including the inverters which power the Class 1E 120V AC, busses, and for control and switching of the Class 1E systems. It is not an accident initiator; however, it serves as an accident mitigation system. The replacement batteries are being purchased to meet the same requirements as the installed batteries. There is no change in the physical and electrical separation provisions for the batteries. The performance of plant safety functions will not be degraded by the new batteries.

Implementation of battery bank replacement will commence when the unit is either in Mode 5 or 6 or in a defueled condition. Technical Specification 3.8.2.2 states that "As a minimum, one DC train as listed in Table 3.8-1 shall be OPERABLE and energized." A DC train consists of two

redundant channels with the following equipment:

125V DC bus
125V DC battery bank
Battery charger or backup battery charger

Technical Specification 3.8.3.2 states that "As a minimum, the following electrical busses shall be energized in the specified manner:'

a. One train of AC emergency busses consisting of one 4160V AC ESF [emergency safety features] bus, and three 480V AC load centers and their associated four Class 1E MCCs [motor control centers].

b. Two 120V AC channel vital busses energized from their associated inverters connected to their respective DC channels.

c. One 125V DC train with both required channels energized from their associated battery banks.

Since the battery replacement will be conducted within a Technical Specification LCO and one DC train is operable, it can be concluded that the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2: Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no new or common failure modes created by the new batteries. The new batteries perform the same function as the existing batteries. The existing batteries have experienced various problems since their original installation; specifically, cracking of cell post nuts and cell covers, voltage gradient conditions, copper contamination and premature electrical failure. As these cells continue to age, cracking and copper contamination will become more widespread.

The existing Exide batteries because of their continuing problems are approaching the end of their useful life; therefore, the new AT&T batteries are expected to be more reliable than the existing ones. For these reasons, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created.

Standard 3: Involve a significant reduction in a margin of safety.

The 125V DC batteries are required to power the emergency diesel generator load sequencers during certain accident conditions.

Ultimately, safety-related equipment required to maintain the integrity of fission product barriers can depend upon the performance of the sequencer, and therefore, the batteries. For the replacement batteries, no fission product barriers are affected by the battery changeout.

Two of the four separate Class 1E 125V DC subsystems, one per each load group, supply control power for their respective Class 1E AC load groups. Complete loss of either one of these subsystems does not prevent the minimum safety functions from being performed.

For these reasons, the amendment does not involve a significant reduction in a margin of safety. Based on the above and the supporting technical justification, APS has concluded that there is no significant hazard consideration involved in this amendment request.

The NRC staff has reviewed the licensees' analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

NRC Project Director: Theodore R. Quay

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of amendment request: December 10, 1991

Description of amendment request: The proposed amendment would revise Calvert Cliffs Unit 1 Technical Specifications to allow for Cycle 11 operation. The safety analyses performed by the licensee in support of this submittal are based on previously reviewed and approved methods. The proposed amendment would make the following changes:

1. Figure 2.2-1 is modified on the negative Axial Shape Index (ASI) side to accommodate the increased core average linear heat generation rate (CALHGR) of Unit 1 Cycle 11.

2. The text of 3.1.3.1 and Figure 3.1-3 are modified to incorporate an increase in maximum allowed F_r^T from 1.65 to 1.70. Also, this Technical Specification reflects the use of the CECOR 3.3/BASSS computer codes which was assumed in the Unit 1 Cycle 11 setpoint analysis.

3. Figure 3.2-3b is modified to indicate a reduction in its acceptable value region due to a reduction in the 100% power F_{xy}^T from 1.54 to 1.50.

4. Implementation of the CECOR 3.3/BASSS computer codes as the on-line incore LCO monitoring system requires changes in Technical Specifications 3.2.2.1, 4.2.2.1.2, 4.2.2.1.3, 4.2.2.1.4, 4.2.2.2.2, 4.2.2.2.3, 4.2.2.2.4, 4.2.3.2, 4.2.3.3, 4.2.3.4 and B 3/4.1.3 to ensure they adequately reflect the CECOR 3.3/BASSS system. A new Surveillance Requirement, 4.2.5.3, is added to accommodate the use of the CECOR 3.3/BASSS network.

5. Technical Specification 3.2.3 is modified to increase the F_r^T from 1.65 to 1.70 to accommodate the increased neutron flux peaking associated with this 24-month cycle for Unit 1 and implementation of the CECOR 3.3/BASSS on-line incore monitoring system.

6. Figure 3.2-3c is modified to accommodate the increased F_r^T limit.

7. The text of 3.2.5 and Table 3.2-1 is modified by changing "core power" terminology to "thermal power" to maintain consistency with other Technical Specifications.

8. The text of B 3/4.7.1.2 is modified by increasing the maximum allowed Auxiliary Feedwater flow from 1300 gpm to 1550 gpm.

9. The text of 5.3.1 is modified to indicate an increase in the maximum enrichment for a reload core from 4.1 w/o to 4.35 w/o U-235.

10. Figure 3.1-1b is modified to show the reduced shutdown margin available at the end of this cycle.

11. Figure 3.2-1 is modified to eliminate specific cycle times.

12. Replacement of the center CEA on Unit 1 eliminates the need for the footnote on the following Technical Specifications: 4.1.1.1.1, 4.1.1.2, 3.1.3.1, 4.1.3.1.1, 4.1.3.1.2, 4.1.3.1.3, 3.1.3.3, 4.1.3.3.1, 4.1.3.3.2, 3.1.3.4, 4.1.3.4, 4.1.3.5, 3.1.3.6, 4.1.3.6, 3.10.1, 4.10.1.1, 4.10.1.2, 3.2.2.1, 4.2.1.3, 4.2.2.1.3, 4.2.2.2.3, 3.2.3 and 4.2.3.3. The text is modified to remove the exclusion concerning the center CEA.

The proposed amendment would also make several editorial changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards considerations, in that operation of the facility in accordance with the proposed amendment would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated; or

All the non-LOCA [loss-of-coolant accident] transient safety analyses for Unit 1 Cycle 11 are bounded by previously presented and approved analyses. All key transient input parameters of the Cycle 11 non-LOCA analyses are equal to or conservative with respect to the reference cycle values (Unit 2 Cycle 9), with one exception. The shutdown margin at the end of cycle decreased from 5.0% delta rho to 4.5% delta rho. This change impacts the Steam Line Rupture analysis. Even with this change incorporated, the results of the analysis are still bounded by the reference cycle.

An ECCS [emergency core cooling system] performance analysis (large and small break LOCA) was done for Unit 1 Cycle 11 to demonstrate compliance with 10 CFR 50.46. In addition to the normal differences in core

design parameters, the differences between Cycle 11 and the reference cycle were: (1) use of the GUARDIAN design for the Batch N fuel assemblies, and (2) the assumption of 500 plugged steam generator tubes (small break LOCA analysis only). These two changes required reanalysis of the hydraulic portion of both analyses.

Since the results of the Unit 1 Cycle 11 analyses are all conservatively bounded by the reference cycle, and due to the nature of the changes to the inputs to the safety analyses addressed above, the Unit 1 Cycle 11 core reload does not present a significant hazards consideration with respect to the existing safety analyses. The Cycle 11 reload does not involve an increase in the probability or consequences of an accident previously evaluated.

2. create the possibility of a new or different type of accident from any accident previously evaluated; or

The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The design of Unit 1 Cycle 11 closely follows that of the reference cycle, Unit 2 Cycle 9. The mechanical design of each assembly in the Batch N reload fuel is identical to the Batch L fuel previously inserted in Calvert Cliffs Unit 2 with the following two exceptions:

(1) The Batch N assemblies use the new GUARDIAN design debris resistant feature. The GUARDIAN design uses a redesigned Inconel spacer grid assembly that improves the grid assembly's capability to entrap debris.

(2) The Zircaloy spacer grids used for Batch N are larger than those used previously. They were redesigned to allow the fuel rods located along the periphery of the fuel bundle to receive more coolant flow when in contact with adjacent bundles. This was accomplished by increasing the size of the outer pin cell by making the outside envelope of the spacer grid assembly larger.

The GUARDIAN design and the larger spacer grids used in the Batch N reload fuel have been considered in all aspects of the nuclear, mechanical, thermal-hydraulic, and transient (LOCA and non-LOCA) safety analyses for Unit 1 Cycle 11. Each of these areas considered the impact of increased core differential pressure due to the introduction of the GUARDIAN design and the larger spacer grid. It was determined that a new accident type would not result from these changes. Reactor coolant system flow is maintained and individual assembly flow is not adversely affected. The impact of the flow both through the assemblies with the GUARDIAN design and the other standard fuel designs were analyzed to determine whether the presence of the more flow restrictive design causes an imbalance in the inlet flow to the other assemblies. It was determined that no significant impact or imbalance occurs for the Unit 1 Cycle 11 design.

All the fuel to be loaded in Cycle 11 was reviewed to ascertain that adequate shoulder gap clearance exists. Analyses were performed with approved models and it was concluded that all shoulder gap and fuel length clearances are adequate for Cycle 11 operation.

Additionally, neutron flux suppressors, called Guide Tube Flux Suppressors (GTFSs), will be installed in the fuel assemblies at selected locations. The basic design of the GTFSs is identical to that of control rod fingers. They are not moveable and serve no control rod function. They are provided to enhance the low fluence fuel management scheme for this cycle. The analyses performed have considered the effect of the GTFSs on fuel performance. The installation of GTFSs does not degrade fuel performance and the results of the analyses remain bounded by the reference cycle. It was determined that a new accident type would not result from these changes.

3. involve a significant reduction in a margin of safety.

No margins of safety for Unit 1 Cycle 11 reload core design are reduced with respect to the previously reported and approved reference cycle. With each proposed Technical Specification change, sufficient conservatism or margin of safety remains between the proposed limits of the changes and actual safety limits (Specified Acceptable Fuel Design Limits - SAFDLs). In fact, the margin previously reported in the reference cycle is applicable to Unit 1 Cycle 11. Therefore, the Cycle 11 reload does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket No. STN 50-454 Byron Station, Unit No. 1, Ogle County, Illinois; Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois

Date of application for amendments: October 26, 1990, as supplemented April 23, 1991, and November 18, 1991.

Description of amendments request: The proposed amendment would revise a portion of the Technical Specification Tables 2.2-1 and 3.3-4, Reactor Trip System Instrumentation Trip Setpoints and Engineered Safety Features Actuation System Instrumentation Trip Setpoints, respectively. New setpoints are specified for the Low-Low Steam Generator Level-Reactor Trip/Auxiliary Feedwater Initiation for the Unit 1 Model D-4 Steam Generators. These changes incorporated results from the licensees recent study and will allow operation of the Unit 1 steam generators over a greater range during operational transients.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below. The proposed amendment involves the following changes:

1.For Byron, Unit 1, and Braidwood, Unit 1, steam generators (SG), the low-low SG water level reactor TRIP SETPOINT in Table 2.2-1 of the Technical Specification (TS) is changed from greater than or equal to 40.8 percent of the old instrument span to greater than or equal to 33 percent of the new instrument span. The corresponding ALLOWABLE VALUE is changed from greater than or equal to 39.1 percent of the old instrument span to greater than or equal to 31 percent of the new instrument span. The current values for TOTAL ALLOWANCE (TA), Z, and SENSOR ERROR (SE) are replaced by N.A.

2.The low-low SG water level auxiliary feedwater initiation TRIP SETPOINT in Table 3.3-4 of the TS is changed from greater than or equal to 40.8 percent of the old instrument span to greater than or equal to 33 percent of the instrument span. The corresponding ALLOWABLE VALUE is changed from greater than or equal to 39.1 percent of the old instrument span to greater than or equal to 31 percent of the new instrument span. The current values for TA, Z and SE are replaced by N.A.

The following analysis of the proposed changes for the evaluation of no significant hazards consideration is in accordance with the standards set forth in 10 CFR 50.92(c).

1.Involve a significant increase in the probability or consequences of an accident previously evaluated

The basic function of the low-low SG water level reactor trip is to preserve the SG heat sink for removal of residual heat. The automatic start of the auxiliary feedwater pumps at the same low-low SG water level setpoint is designed to supply feedwater to the SG secondary side to maintain heat removal capability after the reactor trip. Although the low-low SG water level reactor trip/auxiliary feedwater initiation setpoint was revised, the safety analysis limit of 13.7 percent of span for the SG low-low water level trip setpoint used in the Updated Final Safety Analysis Report (UFSAR)

remains unchanged. The licensee reviewed the Non-LOCA and LOCA accidents analyzed in the UFSAR and verified that the regulatory or design limits were satisfied in each case. The proposed changes do not affect the initiating event of any accident and the safety functions associated with the SG are not affected by the revised level setpoint. Therefore, the proposed amendment changes would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2.Create the possibility of a new or different kind of accident from any accident previously evaluated

The proposed low-low SG water level setpoint changes will not introduce new modes of operation nor will it introduce new limiting single failure. Since the accident analysis conclusions as presented in Chapter 15 of the UFSAR are bounding and remain valid, and no new failure mechanism has been introduced, the possibility of a new or different kind of accident from any previously evaluated is not created.

3.Involve a significant reduction in a margin of safety

The proposed TS setpoint changes have accounted for the instrument error and uncertainties identified in the recently completed CECo setpoint study. The proposed low-low SG water level reactor trip/auxiliary feedwater initiation setpoint is bounded by the original safety analysis limit value used in the applicable UFSAR safety analyses. The licensee investigated the affect of these changes on non-LOCA and LOCA transients and has verified that the plant operation will remain within the bounds of safe, analyzed conditions as defined in the UFSAR. Furthermore, the new setpoints will improve safety since the SG will be less susceptible to feedwater transients, thus, reducing the potential for unnecessary reactor trips, auxiliary feedwater initiation and avoid unnecessary transients on the primary and secondary system. Therefore, the proposed changes do not result in a significant reduction in the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: October 11, 1991

Description of amendments request: The amendment modifies the Technical Specifications (TS) so that an NRC granted exemption to the requirements of 10 CFR Part 50, Appendix J would also apply to the requirements of Section 4.6.1.2 of the TS. The amendment is necessary to effectuate an exemption granted by the NRC because the Appendix J testing requirements are repeated in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because: The proposed amendment allows the station to waive the requirements of Surveillance Requirement 4.6.1.2. if an exemption is granted by the NRC. 10 CFR 50.12(a) states:

'The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, ..."

Allowing the use of the exemption process towards the CILRT test requires LaSalle Station to show that the granting of the exemption is authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are required to be present for the granting of an exemption. One of the special circumstances that would apply in this instance is 10 CFR 50.12(a)(2)(ii) which states:

"Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule..."

The granting of such an exemption by the NRC staff requires LaSalle Station to show that unacceptable containment leakage has been identified and corrected. Alternatives to the testing requirements of Appendix J must assure that Primary containment leakage will continue to be within limits.

Exceeding the allowable leakage rate during the performance of the Containment Integrated Leak Rate Test (CILRT) is indicative of either a passive or a structural component that is leaking or that there is an inadequacy in the Local Leak Rate Test (LLRT) program. When the failure of a CILRT is due to a passive or structural component, the only test for adequate repair would be the CILRT. For a LLRT program inadequacy, the CILRT would serve as a means of verification of the results of the test program. The more frequent performance of the CILRT as required by LaSalle County Station Technical Specifications due to the significant contribution of Local Leak Rate Test failures is redundant to the performance of LLRTs; under such circumstances there is little or no benefit to be gained by performing a Type A test on an accelerated schedule.

Analyzed accidents at LaSalle Station that involve a potential off-site radioactive release include as an assumption the minimum pathway Primary Containment Isolation Valve leakage. The performance of Local Leak Rate Tests (Type B and C) identifies leaking valves and penetrations. The verification of "as-found" and "as-left" local leakage assures that Primary Containment leakage will be within the analyzed limit assumed for accident analyses. The possibility exists that slightly increased local leakage rates may lead to slightly increased dose consequences in the event of an accident. However, the potential dose consequences are maintained to acceptable minimum levels if Primary Containment Isolation Valve leakage is maintained below analyzed limits. Any exemption request to the requirements of Appendix J must satisfy 10 CFR 50.12(a)(2)(iv) to verify there is no adverse impact on the public health and safety. LaSalle's proposed amendment requires Staff review and approval of any exemption from the surveillance requirements of 10 CFR 50, Appendix J. Therefore, there is no significant increase in the dose consequences of any accident previously evaluated.

Containment leakage is not considered an initiator of any previously evaluated accident; therefore, there is no increase in the probability of an accident previously analyzed.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

Both Local Leak Rate Testing and Containment Integrated Leak Rate Testing as specified in the LaSalle County Station Safety Analysis Report were evaluated in Section 6.2.6 of LaSalle's Safety Evaluation Report, NUREG-0519, and found to be acceptable. Local Leak Rate Testing identifies and verifies correction of penetration leakage. Local Leak Rate Testing penalty additions caused the failure of "as-found" CILRTs for LaSalle Station (two "as-found" CILRTs for LaSalle Unit Two failed as a direct result of incorporation of the minimum pathway leakage determined by Local Leak Rate Tests). Local Leak Rate Testing will provide adequate assurance of the continued integrity of the Primary Containment without increasing the frequency of Containment Integrated Leak Rate Tests. Following Staff review and approval of an exemption request, primary Containment integrity will continue to be maintained as designed and previously evaluated.

Because there are no changes to the facility or operation of the facility as described in the

UFSAR, this amendment request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) Involve a significant reduction in the margin of safety because:

At the design basis accident pressure specified in Technical Specification 3.6.1.2.a, a 40 percent margin to the maximum allowable containment leakage rate (La) is maintained for total maximum pathway leakage determinations. This limit is determined from Local Leak Rate Tests. Administrative guidelines have been set for each penetration or valve to ensure that abnormal leakages will be corrected. Repairs or corrections to penetrations demonstrating excessive leakage are performed unless the total Type B and Type C leakage is maintained at less than 0.6 La. Although there exists the possibility of slightly increased leakage rates for a small sample of penetrations, all repairs are required to restore leakage rates to less than the administrative limit at the next refueling outage.

Local Leak Rate Tests in conjunction with a comprehensive corrective and preventive maintenance program for penetrations determined to be poor performers will assure that the Primary Containment Integrity will be maintained without additional Containment Integrated Leak Rate Tests.

The proposed amendment request allows pursuit of an exemption from the requirements of 10 CFR 50, Appendix J as recommended in IEN 85-71. To meet the guidance provided in IEN 85-71, LaSalle is required to propose a Corrective Action Plan that demonstrates CECo's commitment to ensuring Primary Containment leakage rates are maintained to acceptable levels.

Local Leak Rate Test minimum pathway leakage rate penalties were the direct cause of "as-found" Containment Integrated Leak Rate Test failures for LaSalle Station; therefore, verification of an adequate margin of safety is assured by the conduct of Local Leak Rate Tests. Section 6.2.6 of the Standard Review Plan (SRP) assures that CILRT tests are performed in accordance with the requirements of 10 CFR 50, Appendix J. LaSalle's proposed exemption process requiring Staff pre-approval ensures Primary Containment integrity will be maintained and would therefore result in no significant reduction in the margin of safety.

Guidance has been provided in "Final Procedures and Standards on No Significant Hazards Considerations," Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provides examples of amendments which are and are not considered likely to involve significant hazards considerations. This proposed amendment request most closely fits the example of a change which may either result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

This proposed amendment request does not involve a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings or a significant relaxation of the bases for the limiting conditions for operations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348. Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: November 7, 1991

Description of amendments request: The proposed amendment would revise the Technical Specifications to permit the replacement of the current low pressure air start system for the Diesel Generators with a new high pressure system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change addresses a new Emergency Diesel Generator Starting Air system being installed at Zion. The function of the starting air system is to provide air of sufficient pressure and volume to enable cranking of a cold diesel engine, and to provide diesel engine control air to enable safe operation and shutdown of the diesel engine during emergency situations. The proposed change involves the addition of Surveillance Requirements pertaining to the capability of the high pressure starting air system compressors to charge the air receivers from 0 psig to 560 psig within 60 minutes, and the capability of the high pressure starting air receivers to hold a pressure of at least 350 psig, from an initial pressure of 480 ± 10 psig, for at least 60 minutes. The proposed change also involves the addition of the start point for the current low pressure air compressor performance test. A Failure Modes and Effects Analysis [sic] has been performed on the new starting air system. This analysis demonstrates that no single active failure will have an adverse affect on more than one redundant EDG. The starting air system and its function are not assumed to be a precursor to any design basis accident assumed in the Safety Analysis Report. The starting air system is assumed to function in the mitigation of design basis accidents and transients as described in the Safety Analysis Report. There is however, no significant increase in the consequences of an accident previously evaluated since the new high pressure starting air system will provide adequate reliability through its system redundancy. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change, which involves the addition of a Surveillance Requirement necessary to address the new emergency diesel generator high pressure starting air system compressor capability, is necessary due to a physical alteration of the plant. New and different type of equipment will be installed, and changes in parameters governing normal plant operation will be made.

However, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the following reasons:

A) Although the change results from a physical alteration of the plant, this physical alteration will be made in accordance with Commonwealth Edison Company (CECo) approved procedures and the 10 CFR 50.59 review process. The plant alterations necessary to incorporate the new high pressure starting air system will be reviewed for plant safety significance under the 10 CFR 50.59 review process prior to installation.

B) Although the change results from the installation of new and different type of equipment in the plant (particularly the new regulating/security valves), a Failure Modes and Effects Analysis [sic] has been performed on the new starting air system. This analysis demonstrates that no single active failure will have an adverse affect on more than one redundant EDG. No new or different kinds of accidents from any accident previously evaluated for the plant were identified by the Failure Modes and Effects Analysis.

Surveillance and testing requirements will be provided to ensure the results of the Failure Modes and Effects Analysis remain valid.

The high pressure starting air system modification associated with this Technical Specification Change Request will maintain the starting air capabilities consistent with the assumptions made in the Safety Analysis Report and the reliability and availability of the diesel generators is expected to improve.

C) The proposed change does affect parameters governing normal plant operation. The proposed changes are required to ensure appropriate Surveillance Requirements are applied to the new starting air system. However, these parameters are not assumed

in any accident analysis. These new parameters and associated Surveillances will demonstrate proper system performance and will not create a new or different kind of accident, since the new Surveillance procedure and test methodology for the compressor performance Surveillance will be similar to that used on the existing low pressure starting air compressors. While the new system leakage Surveillance will require a new Surveillance procedure, the test methodology will be similar to current leakage test methodology on existing plant equipment and will ensure the new air start system air capacity is equivalent to the existing air start system. Therefore, the implementation of this proposed specification does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Station.

3. Does the change involve a significant reduction in the margin of safety?

The replacement and additional Surveillance Requirements proposed by this change will provide assurance, equivalent to that provided by the current Surveillance Requirement for the low pressure starting air system, that the emergency diesel generator starting air system can be relied upon during accident conditions. The design/accident function of the starting air system has not been altered as a result of the new high pressure starting air system modification and the proposed additional Surveillance Requirements. A Failure Modes and Effects Analysis [sic] has been performed on the new starting air system. This analysis demonstrates that no single active failure will have an adverse affect on more than one redundant EDG. Furthermore, the overall reliability of emergency diesel generators is expected to improve. Therefore, this change does not represent a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: March 31, 1988, as supplemented December 23, 1991.

Description of amendment request: The proposed amendment would add a license condition requiring the Connecticut Yankee Atomic Power Company (the licensee) to implement and maintain an Integrated Implementation Schedule Program Plan. The Program Plan provides a methodology to be followed for scheduling plant modifications and engineering evaluations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with this proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change would require the implementation of the IIS methodology described in the Program Plan. As such, it requires that CYAPCO establish an administrative means for tracking, prioritizing, and scheduling NRC-required plant modifications and engineering evaluations, and licensee-identified plant improvement projects. This methodology is intended to enhance plant safety by more effectively controlling the number and scheduling of plant modifications, thereby assuring that issues required for safe operation of the plant receive priority and are completed in a timely manner.

Because the license condition addresses only an administrative scheduling mechanism, it does not affect directly the design or operation of the plant. Therefore, no accident analyses are affected and the proposed change does not increase the probability or consequences of any previously evaluated accident.

2. Operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, the proposed license condition establishes a new requirement relating to scheduling of modifications and engineering evaluations. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Operation of the facility in accordance with this proposed change will not involve a significant reduction in any margin of safety.

As discussed above, the proposed license condition establishes a new administrative requirement intended to enhance public safety and reliable plant operation. It does not affect any accident analysis or involve any modification to the plant configuration or operation. Therefore, the proposed change does not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: November 16, 1989

Description of amendment request: The proposed changes to the Fermi-2 Technical Specifications (TS) is submitted pursuant to License Condition 2.C(7) of the Operating License and adds surveillance requirements for periodic leakage testing and visual inspection of the Control Room Emergency Filtration System (CREFS) to assure the integrity of those portions of the system external to the Control Room. This requested surveillance satisfies the requirements of the License Condition 2.C(7) and thus the License Condition is proposed to be deleted from the Operating License.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The new surveillance requirements act to give assurance that the radiation dose to Control Room personnel is maintained below the criteria of General Design Criteria (GDC) 19 of [10 CFR 50] Appendix A as previously evaluated. As such, the change acts to ensure that the consequences of previously evaluated accidents remain as evaluated. The CREFS is not associated with any accident initiating mechanism; therefore, the probability of any previously evaluated accident is unchanged.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change provides verification that passive features of the CREFS are not degrading. The proposed leakage test must be performed when the ductwork to be tested is permitted by the Technical Specifications to be out-of-service, or the ACTION statement for CREFS will apply. Therefore, the test does not affect the ability of the CREFS to operate in the normal or emergency mode when required. Conduct of the proposed inspections does not affect the normal or emergency modes of CREFS operation. The proposal does not result in any modification of system or plant design. Therefore, the proposal does not create any new accident initiating mechanisms.

(3) Involve a significant reduction in a margin of safety. The change assures that the radiation dose to Control Room personnel

during accident conditions remain below GDC 19 criteria over the plant lifetime. In so doing, the change acts to maintain the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: L. B. Marsh.

Duquesne Light Company, et. al., Docket No. 50-412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of amendment request: October 9, 1991

Description of amendment request: The proposed amendment would revise Table 2.2-1 (Note 1) for Technical Specification 2.2.1, "Reactor Trip System Instrumentation Setpoints." Specifically, it would revise a constant (K_2) in the equation used to determine the overtemperature delta temperature (OTDT) trip setpoint.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed change merely corrects the value for K_2, in the OTDT equation, to provide protection for the core as originally assumed in the safety analysis. The current OTDT setpoint does not protect the core from departure-from-nucleate-boiling at high pressure over a small range of temperatures, unless the parameters of the justification for continued operation are met. The change does not affect the operation or function of the reactor trip system, does not involve any physical modification to the facility, and does not affect the manner in which the facility is operated.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because it does not affect the manner in which the facility is operated. The proposed change merely corrects a constant in the OTDT equation to provide protection for the core limits as originally assumed in the safety analysis.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed change will continue to ensure that the core is protected against a low departure-from-nucleate-boiling ratio by tripping the reactor at the required setpoint.

Based on this review, it appears that the three criteria of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, et. al., Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: October 15, 1991

Description of amendment request: The proposed amendment would revise the Appendix A Technical Specifications to provide for the use of VANTAGE 5H fuel in subsequent plant operating cycles. Specifically, the proposed amendment increases control rod drop time.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the VANTAGE 5H and standard 17 x 17 fuel assemblies are hydraulically equivalent. Implementation of the VANTAGE 5H fuel design will not significantly change the core physics characteristics and will meet all design bases. Mechanical testing and analysis of the VANTAGE 5H Zircaloy grid and fuel assembly have demonstrated that the VANTAGE 5H structural integrity under seismic/LOCA loads will provide margins comparable to the standard 17 x 17 fuel assembly design. The results of NRC-approved analysis show some changes in the consequences of accidents previously evaluated; however, the results are all clearly within NRC acceptance criteria and demonstrate the capability to operate the plant safely.

2.The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the VANTAGE 5H and standard 17 x 17 fuel assemblies are hydraulically equivalent and the VANTAGE 5H assembly will not significantly affect the overall method and manner of plant operation; therefore, the change does not create the possibility of a new or different kind of accident.

3. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the evaluations and analysis to support the proposed change concluded that, in all cases, the results will be within the plant design bases. Although NRC-approved analysis shows some change in the consequences of accidents previously evaluated, the results are clearly within NRC acceptance criteria and demonstrate the capability to operate the plant safely. Therefore, the change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, et. al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: October 9, 1991

Description of amendment request: The proposed amendment would revise the primary containment air temperature sensor locations currently specified in Surveillance Requirement 4.6.1.5 for Units 1 and 2. The proposed amendment would also replace the word "thermocouple" with "detector" to more accurately describe the resistance temperature devices installed in Unit 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c): The NRC staff's review is presented below:

1. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed change to the primary containment air temperature sensor locations will continue to ensure that containment operation is maintained within the limits of the DBA analyses for containment. The ability of the containment to perform as a fission product barrier remains unchanged.

2. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed changes in sensor location will continue to provide a representative sample of the overall containment atmosphere temperature. The changes do not affect the manner by which the facility is operated, or change equipment or features which affect the operational characteristics of the facility.

3. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3) because the proposed amendment does not change the maximum and minimum allowable containment temperatures. The proposed change in sensor locations will ensure that containment temperature is maintained within these limits.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: December 5, 1991

Description of amendment request: The proposed amendment revises the Technical Specifications supporting the Cycle 6 Reload for Grand Gulf Nuclear Station, Unit 1. Specifically, the amendment would revise a) the Safety Limit Maximum Critical Power Ratio (MCPR) values for Two Loop Operation and Single Loop Operation (SLO), b) the SLO Maximum Average Planar Heat Generation Rate (MAPLHGR) multiplier, c) the flow-dependent MCPR operating limits, d) the power-dependent MCPR operating limits, e) the exposure-dependent MCPR operating limits, f) Linear Heat Generation Rate (LHGR) limits for 8X8 fuel types for average planar exposures beyond 40,000 MWd/MTU, and g) the flow-dependent and power-dependent LHGR multipliers.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from these changes.

a) This change consists of a revision to the Safety Limit MCPR values for Two Loop Operation and for SLO. The revised limits are determined using the SNP [Siemens Nuclear Power] Safety Limit methodology, which accounts for the effects of channel bow. This change only redefines the safety limits and does not affect the precursors to any event evaluated previously. Therefore, the change to the MCPR safety limits does not involve a significant increase in the probability of any event previously evaluated.

As a result of this change, a decrease from the Cycle 5 values is observed. The revised limits take account of the uncertainties associated with safety limit determination and the effects of channel bow. Compliance with the applicable criterion for incipient boiling transition continues to be ensured. Therefore, the revision of the MCPR limits does not involve a significant increase in the consequences of any event previously evaluated.

b) This change consists of a revision to the MAPLHGR multiplier for SLO during Cycle 6. This change only redefines the MAPLHGR for the 8X8 and 9X9-5 fuel types that will be resident in the core for Cycle 6; it does not affect the precursors to any event previously evaluated. Therefore, the revision of the MAPLHGR limits does not involve a significant increase in the probability of any event previously evaluated.

Use of the revised MAPLHGR multiplier for SLO ensures that the PCT [Peak Clad Temperature] for SLO continues to be bounded by the PCT for Two Loop Operation. For both Two Loop Operation and SLO, the calculated PCTs for both the 8X8 and 9X9-5 fuel types are well below the 10CFR50.46 limit of 2200 degrees F. Therefore, the revision of the MAPLHGR limits does not involve a significant increase in the consequences of any event previously evaluated.

c) This change revises the flow-dependent MCPR operating limits ($MCPR_f$) for Cycle 6. This change only redefines the $MCPR_f$ operating limits and does not affect the precursors to any event previously evaluated. Therefore, the revision of the $MCPR_f$ operating limits does not involve a significant increase in the probability of any event previously evaluated.

The Cycle 6 analyses have demonstrated that the slow flow runout will not result in the safety limit being exceeded. Therefore, the revision of the $MCPR_f$ operating limits does not involve a significant increase in the consequences of any event previously evaluated.

d) This change revises the power-dependent MCPR operating limits ($MCPR_p$) for Cycle 6. This change only redefines the $MCPR_p$ operating limits and does not affect the precursors to any event previously evaluated. Therefore, the revision of the $MCPR_p$ operating limits does not involve a significant increase in the probability of any event previously evaluated.

The Cycle 6 analyses have demonstrated that the limiting events will result in a minimum CPR [Critical Power Ratio] at or above the MCPR safety limit with the plant initially at the $MCPR_p$ limit. Therefore, the revision of the $MCPR_p$ operating limits does not involve a significant increase in the probability of any event previously evaluated.

e) This change revises the exposure-dependent MCPR operating limits ($MCPR_e$) for Cycle 6. This change only redefines the $MCPR_e$ operating limits and does not affect the precursors to any event previously evaluated. Therefore, the revision of the $MCPR_e$ operating limits does not involve a significant increase in the consequences of any event previously evaluated.

The Cycle 6 analyses have demonstrated that the limiting events will result in a minimum CPR at or above the MCPR safety limit with the plant initially at the $MCPR_e$ limit. Therefore, the revision of the $MCPR_e$ operating limits does not involve a significant increase in the consequences of any event previously evaluated.

f) This change increases the LHGR limit for 8X8 fuel types for average planar exposures beyond 40,000 MWd/MTU. This change only redefines the LHGR limit for all 8X8 fuel types that will be resident in the core for Cycle 6; it does not affect the precursors to any event evaluated previously. Therefore, the increase of the LHGR limits for 8X8 fuel types does not involve a significant increase in the probability of any event previously evaluated.

The revised LHGR limits for the 8X8 fuel types that will be resident in the core for Cycle 6 satisfy the applicable fuel mechanical design criteria. Therefore, the revision of the LHGR limits for 8X8 fuel types does not involve a significant increase in the consequences of any event previously evaluated.

g) This change addresses the revision of the flow-dependent and power-dependent LHGR multiplier curves to incorporate fuel type-specific multipliers. This change does not affect the precursors to any event previously evaluated. Therefore, the revision of the LHGR multipliers does not involve a significant increase in the probability of any event previously evaluated.

The LHGR multipliers ensure that the transient LHGR limits are not exceeded during operation at off-rated conditions. Therefore, the revision of the LHGR multipliers does not involve a significant increase in the consequences of any event previously evaluated.

Overall, the proposed changes define parameters determined conservatively and consistent with the fuel that will be resident in the core during Cycle 6. They do not affect the precursors to any accident previously evaluated or challenge any acceptance criteria previously evaluated. These changes, therefore, do not involve a significant increase in the probability or consequence of any accident previously evaluated.

2. These changes do not create the possibility of a new or different kind of accident from any previously evaluated.

This response addresses Items a) through g).

The Cycle 6 reload fuel has been shown to be of a design compatible with the fuel loaded for previously cycles. It has been determined that the Cycle 6 reload fuel will not create the possibility of a new or different kind of accident. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. They introduce revised limits that have been shown to be acceptable for Cycle 6 operation. Therefore, the proposed changes do not result in the creation of any new precursors to an accident. Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

3. These changes do not involve a significant reduction in the margin of safety.

a) This change consists of a revision to the Safety Limit MCPR values for Two Loop Operation and for SLO. The revised limits are based on SNP methodology, which takes account of channel bow effects. The CPR performance of the SNP 9X9-5 fuel, improved performance for Cycle 6 due to CarTech channels being used for two reload batches and improved local power distributions, result in a change in the safety limit from 1.09 to 1.06 for Two Loop Operation and from 1.09 to 1.07 for SLO. The margin to the point of incipient boiling transition is not changed significantly. Therefore, the revision of the MCPR safety limits does not involve a significant reduction in the margin of safety.

b) A revised MAPLHGR multiplier is provided for Single Loop Operation (SLO). The MAPLHGR multiplier ensures that the PCTs for SLO are bounded by the PCTs for Two Loop Operation. For SLO, the PCTs for the 8X8 and 9x9-5 fuel types are 1631 degrees F and 1609 degrees F, respectively. The PCTs for SLO are approximately 100 degrees F below the corresponding values for Two Loop Operation. The PCTs for both SLO and Two Loop Operation are well below the 10CFR50.46 limit of 2200 degrees F. Therefore, the revision of the SLO MAPLHGR multiplier does not involve a significant reduction the the margin of safety.

c) This change revises the flow-dependent MCPR operating limits ($MCPR_f$) for Cycle 6. This change only redefines the $MCPR_f$ operating limits established previously. The Cycle 6 analyses have dedmonstrated that the slow flow runout will mot result in the safety limit being exceeded. Therefore, the revision of the $MCPR_f$ operating limits does not involve a significant reduction in the margin of safety.

d) This change revises the power-dependent MCPR operating limits for Cycle 6. This change only redefines the $MCPR_p$ operating limits established previously. The Cycle 6 analyses have demonstrated that the limiting events will result in a minimum CPR which is at or above the MCPR safety limit. Therefore, the revision of the $MCPR_p$ operating limits does not involve a significant reduction in the margin of safety.

e) This change revises the exposure-dependent MCPR operating limits for Cycle 6. This change only redefines the $MCPR_e$ operating limits established previously. The Cycle 6 analyses have demonstrated that the limiting events will result in a minimum CPR which is at or above the MCPR safety limit. Therefore, the revision of the $MCPR_e$ operating limits does not involve a significant reduction in the margin of safety.

f) This change increases the LHGR limits for 8X8 fuel types for average planar exposures beyond 40,000 MWd/MTU. The Cycle 6 analyses have shown that the mechanical design criteria continue to be satisfied. Therefore, the revision of the LHGR limits for 8X8 fuel types does not involve a significant reduction in the margin of safety.

g) This change addresses the revision of the flow-dependent and power-dependent LHGR multiplier curves to incorporate fuel type-specific multipliers. The Cycle 6 analyses have shown that the transient LHGR limits are not exceeded at off-rated conditions, protecting against both fuel centerline melting and 1% clad strain during anticipated operational occurences. Therefore, the revision of the LHGR multiplier curves does not involve a significant reduction in the margin of safety.

Overall, the proposed changes define parameters determined conservatively and consistent with the fuel that will be resident in the core during Cycle 6. They do not impact any of the acceptance criteria established previously. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: December 17, 1991

Description of amendment request: The proposed amendments would remove the schedules for the withdrawal of reactor vessel material specimens from the Technical Specifications. These requests are made in accordance with the guidance of Generic Letter 91-01, "Removal of the Schedule for the Withdrawal of Reactor Vessel Material Specimens From Technical Specifications."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the regulatory requirement of 10 CFR 50 Appendix H will remain in effect in the Technical Specifications. Removing Table 4.4-5, and any references to it, will not result in any loss of regulatory control because changes to this schedule are controlled by the requirements of 10 CFR 50 Appendix H.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of this modified specification cannot create the possibility of a new or different kind of accident from any previously evaluated because as previously stated in Appendix H Section II.B.3 of 10 CFR 50, the licensee must have a withdrawal schedule approved by the NRC prior to implementation. By removing Table 4.4-5, and any references to that table, FPL will only eliminate duplication of a requirement that it already adheres to in 10 CFR 50 Appendix H.

(3) Use of the modified specification would not involve significant reduction in a margin of safety.

By removing Table 4.4-5 the margin of safety would not be compromised because the surveillance requirement still requires surveillance specimens to be removed and examined, to determine changes in material properties, at intervals required by 10 CFR 50 Appendix H. In addition the results of these examinations shall be used to update the figures for the pressure and temperature operating limits required by the Technical Specifications.

Based on the above, we have determined that the proposed amendment[s] [do] not (1) involve a significant increase in the

probability or consequences of an accident previously evaluated, (2) create the probability of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety; and therefore [do] not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 20, 1991

Description of amendment request: The proposed amendments would change the Technical Specifications (TS) for Vogtle Electric Generating Plant Units 1 and 2, to allow deletion of the autoclosure interlock (ACI), for the suction valve of the residual heat removal system (RHRS), to revise the setpoint of the associated open permissive interlock (OPI), and to increase the surveillance interval for verifying operability of the RHRS suction relief valves which provide cold overpressurization protection. Specifically, the following three TSs would be changed: (1) TS 4.5.2.d., item 1, presently requires "verifying automatic isolation and interlock action of the RHR system from the Reactor Coolant System by ensuring that: a) With a simulated or actual Reactor Coolant System pressure signal greater than or equal to 377 psig, the interlocks prevent the valves from being opened ..." This TS would be revised to delete reference to the ACI and to revise valve opening setpoint associated with the OPI from 377 psig to 365 psig. The revised TS would read: "verifying automatic isolation action of the RHR system from the Reactor Coolant System by ensuring that with a simulated or actual Reactor Coolant System pressure signal greater than or equal to 365 psig the interlocks prevent the valves from being opened...," (2) The surveillance requirement TS 4.5.2.d 1. b for verifying ACI operability would be deleted, and (3) The surveillance interval in TS 4.4.9.3.2 for verifying operability of the RHRS suction relief valves would be increased from 12 to 72 hours.

Basis for proposed no significant hazards consideration determination: The design of RHRS suction line includes two motor-operated gate valves which are normally closed unless the RHRS is in operation. These valves isolate the low pressure RHRS (design pressure of 600 psig) from the high pressure (RCS) reactor coolant system (normal operating pressure of 2235 psig). Currently, each isolation valve is provided with two automatic interlocks, namely OPI and ACI. The OPI prevents inadvertent opening of the valves when the RCS pressure is above the design pressure of the RHRS. The ACI ensures that the isolation valves are fully closed when the RCS pressure is above the RHRS design pressure.

The Georgia Power Company (licensee) proposes to delete the ACI and revise the valve opening setpoint for the OPI. In support of its request, the licensee has performed safety evaluations based on a Westinghouse Owners Group document WCAP-11736, "Residual Heat Removal System Autoclosure Interlock Removal Report for the Westinghouse Owners Group" dated February 1988 and documented its results in WCAP-12927, "Residual Heat Removal System Autoclosure Interlock Removal Report for Vogtle Electric Generating Plant Units 1 and 2." The Nuclear Regulatory Commission (the Commission) has previously reviewed and approved WCAP-11736 for generic use by its Safety Evaluation Report (SER) of August 8, 1989. In its SER, the Commission concluded that the removal of the ACI for Westinghouse plants can produce a net safety benefit provided five specific areas for plant improvements, including certain hardware and procedural changes, are in place. The licensee's plant-specific analyses and evaluations for the removal of ACI address the required plant improvements, and include probabilistic risk assessments (PRA) and safety analyses to ensure that the Vogtle facilities do not show results that invalidate the conclusions of WCAP-11736. Concurrent with the removal of the ACI, the licensee proposes to revise the surveillance interval for verifying operability of the RHRS suction relief valves for cold overpressurization protection purposes, from 12 to 72 hours.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed amendment do not involve a significant increase in the probability or consequences of accident previously evaluated. The two motor-operated gate valves located in each RHRS suction line are normally closed to keep the low pressure RHRS (design pressure of 600 psig) isolated from the high pressure RCS (normal operating pressure of 2235 psig). An ACI was provided to isolate the low pressure RHRS from the RCS when the pressure increases above the ACI setpoint. However, spurious ACI actuation has resulted in RHRS isolation and subsequent loss of decay heat removal capability. The removal of the ACI feature will preclude this inadvertent isolation. The addition of a control room alarm to alert the operator that a suction isolation valve(s) is not fully closed when the RCS pressure is above the alarm setpoint in conjunction with administrative procedures will ensure that the RHRS will be isolated from the RCS, if the RCS pressure increases above the alarm setpoint. The modified OPI setpoint further minimizes the potential of opening the RHRS suction isolation valves while the RCS pressure is above the design pressure of the RHRS. Therefore, the performance of the RHRS would not be adversely affected by the RHRS ACI deletion and OPI setpoint modification.

Note, the interlock provided an automatic closure to the RHRS suction valves on high pressure; however, rapid overpressure protection of the RHRS is provided by the RHRS relief valves and not by the slow acting suction isolation valves. This overpressure protection will remain available following the removal of the ACI feature. Thus, the RHRS integrity will not be affected by the removal of the ACI feature. In addition, the removal of the ACI feature does not adversely affect any fission barrier, alter any assumptions made in the radiological consequences evaluations, or affect the mitigation of radiological consequences.

The probabilistic and overpressurization analyses addressed the effect of removing the RHRS ACI on the potential for an interfacing system LOCA (loss of coolant accident), RHRS availability, and low temperature overpressurization. The results indicate that the frequency of an interfacing system LOCA is reduced by 35 percent, and the short-term and long-term cooling phase failure probabilities are reduced by 25.5 and 39.8 percent, respectively. The failure probability for RHRS initiation and the consequences of low temperature overpressure events are not significantly affected by removal of the RHRS ACI. With the deletion of the ACI, the potential for spurious automatic closure of a RHRS suction isolation valve resulting in inadvertent RHRS isolation has been significantly reduced.

Finally, with the deletion of the ACI, there is no need for a 12-hour surveillance interval for verifying that the RHRS suction isolation valves are open when the RHRS relief valves are being used for cold overpressure protection. Therefore, increasing the interval of surveillance requirement 4.4.9.3.2 from 12 hours to 72 hours (equivalent to that required for the PORV block valves) will have no

effect on the probability or consequences of any accident previously evaluated.

Thus, operation of [Vogtle Electric Generating Plant] VEGP in accordance with the proposed amendments does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The removal of the RHRS ACI and the OPI setpoint change will not result in the initiation of any accident nor create any new credible limiting single failure. The removal of the RHRS ACI significantly reduces the potential for spurious actuation causing isolation of the RHRS. The RHRS relief valves will remain available to protect the RHRS from overpressure transients. Since an alarm is being added to the logic of each valve, the operators are alerted if the RCS pressure exceeds a conservative preset value and a suction isolation valve is not fully closed. The modified OPI setpoint further minimizes the potential of opening the RHRS suction isolation valves while the RCS pressure is above the design pressure of the RHRS. The modified OPI setpoint will continue to prevent the RHRS suction isolation valves from being opened while the RCS pressure is above the RHRS design pressure. The removal of the ACI, the change in the interval of surveillance requirement 4.4.9.3.2, and the OPI setpoint modification do not result in any event previously deemed incredible being made credible.

Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The analyses presented in WCAP-12927 indicate a significant reduction in the frequency of an interfacing system LOCA and in the failure probabilities for the RHRS in the short-term and long-term cooling phases associated with the removal of the ACI. The modified OPI setpoint of 365 psig further minimizes the potential of opening the RHRS suction isolation valves while the RCS pressure is above the design pressure of the RHRS. The removal of the ACI will have a positive impact on the availability of the RHRS relief valves for mitigating cold overpressure events. Consequently, the change in the interval of surveillance requirement 4.4.9.3.2 does not involve a significant reduction in the margin of safety.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30303-1810.

NRC Project Director: David B. Matthews

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: February 15, 1991

Description of amendment request: The amendments would revise Technical Specification (TS) 5.6.1.1 "Criticality - Spent Fuel," to allow Westinghouse fuel in Region I of the spent fuel pool which is currently arranged in a 3-out-of-4 storage array with one storage location empty to be arranged in a "checkerboard" pattern where highly reactive fuel would be alternated with adequately burnt fuel with no empty storage locations. Additionally, minor administrative changes, i.e., page renumbering and corrections to Table titles are being made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed amendment to an operating license will not involve a significant hazards consideration if the proposed amendment satisfies the following three criteria:

(1) Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated, or

(3) Does not involve a significant reduction in a margin of safety.

Criterion 1

Westinghouse has performed analyses that demonstrate the acceptability of the proposed changes with regard to criticality. The analyses demonstrate that fuel stored in the spent fuel pool will remain subcritical under design basis conditions. However, accidents or incidents can take place which would increase reactivity such as dropping a fuel assembly between the rack and pool wall or inadvertently placing a fuel assembly in the wrong location. For those conditions, the double contingency principle of ANSI N16.1-1975 can be applied. That principle states that one is not required to assume two unlikely, independent, concurrent events to ensure protection against criticality. Thus, the presence of greater than or equal to 2400 ppm of soluble boron in the spent fuel pool can be assumed as a realistic initial condition, since not assuming it would be a second unlikely event. The reactivity of the fuel stored in the spent fuel pool would be decreased by about 0.25 delta-k, with approximately 2000 ppm of boron; that is, for an accident or an incident resulting in an increase in reactivity, k_{eff} would remain less than or equal to 0.95 due to the effect of the dissolved boron. In addition, paragraph 2.3 of the SER related to Amendments 118 and 104 for Cook Nuclear Plant Units 1 and 2, respectively, states that "the reactivity reduction due to the required pool boration of 2400 ppm of boron more than offsets the potential reactivity increases from postulated fuel mishandling accidents." It is concluded that the proposed T/Ss changes should not involve a significant increase in the probability or consequences of a previously analyzed accident.

Criterion 2

The Westinghouse analyses demonstrate continued acceptability of the spent fuel pool regarding criticality. The T/Ss changes will not result in physical changes to the plant (other than to the fuel assemblies, which were the subject of the Westinghouse analyses). Therefore, we believe the proposed T/Ss changes will not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3

Westinghouse has performed analyses that demonstrate the acceptability of the proposed changes with regard to criticality. The analyses demonstrate that the fuel stored in the spent fuel pool will remain subcritical under design basis conditions. However, accidents or incidents can take place which would increase reactivity such as dropping a fuel assembly between the rack and pool wall or inadvertently placing a fuel assembly in the wrong location. For those conditions, the double contingency principle of ANSI N16.1-1975 can be applied. That principle states that one is not required to assume two unlikely, independent, concurrent events to ensure protection against criticality.

Thus, the presence of greater than or equal to 2400 ppm of soluble boron in the spent fuel pool can be assumed as a realistic initial condition, since not assuming it would be a second unlikely event. The reactivity of the fuel stored in the spent fuel pool would be decreased by about 0.25 delta-k, with approximately 2000 ppm of boron; that is, for an accident or an incident resulting in an increase in reactivity, k_{eff} would remain less than or equal to 0.95 due to the effect of the dissolved boron. In addition, paragraph 2.3 of the SER related to Amendment 118 and 104 for Cook Nuclear Plant Units 1 and 2, respectively, states that "the reactivity reduction due to the required pool boration of 2400 ppm of boron more than offsets the potential reactivity increases from postulated fuel mishandling accidents." It is concluded that the proposed T/Ss changes should not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Further, the staff notes that the remaining changes are administrative in

nature. Therefore, these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed,

(2) Create the possibility of an new or different kind of accident from any accident previously analyzed or evaluated, or

(3) Involve a significant reduction in a margin of safety.

Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: January 7, 1992

Description of amendment request: The proposed amendment would clarify the applicability of surveillance requirements for equipment out of service, and for equipment not required to be operable by Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, the essence of which, is presented below:

This proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change will not significantly increase the probability or consequences of an accident, because surveillance testing normally verifies system or component operability, as opposed to discovering inoperability. Clarification of surveillance applicability while the plant is shut down and equipment is not operable, or not required to be operable, is considered an administrative change. This change does not alter the availability or condition of applicable equipment and, therefore, does not alter the accident analyses or their conclusions associated with that equipment.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, because surveillance requirements to verify operability will continue to be performed in accordance with the Technical Specifications at the specified surveillance interval. This change will not affect the design of the plant and will not allow the plant to be operated outside the currently allowed modes of operation.

3. Involve a significant reduction in a margin of safety. The clarification of Specification 4.0 will not affect equipment reliability when that equipment is required to be operable. The Limiting Conditions for Operation and associated remedial action statements govern operability of the equipment subject to surveillance. This change does not alter these specifications or their applicability. Guidance has been provided in the **Federal Register** (51 FR 7744) for the application of standards to license change requests for determination of the existence of amendments that are not considered likely to involve significant hazards considerations. This proposed amendment does not involve a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings, nor a significant relaxation of the bases for the limiting conditions for operations. Therefore, based on the guidance provided in the **Federal Register** and the criteria established in 10 CFR 50.92, the proposed change does not constitute a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: March 24, 1988, as supplemented December 23, 1991. The March 24, 1988 submittal was published in the **Federal Register** on May 4, 1988 (53 FR 15914).

Description of amendment request: The proposed amendment will add a license condition requiring the licensee to implement and maintain its Integrated Implementation Schedule Program Plan. This Program Plan will provide a methodology to be followed for scheduling plant modifications and engineering evaluations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with this proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change would require the implementation of the IIS methodology described in the Program Plan. As such, it requires that NNECO establish an administrative means for tracking, prioritizing, and scheduling NRC-required plant modifications and engineering evaluations, and licensee-identified plant improvement projects. This methodology is intended to enhance plant safety by more effectively controlling the number and scheduling of plant modifications, thereby assuring that issues required for safe operation of the plant receive priority and are completed in a timely manner.

Because the license condition addresses only an administrative scheduling mechanism, it does not affect directly the design or operation of the plant. Therefore, no accident analyses are affected and the proposed change does not increase the probability or consequences of any previously evaluated accident.

2. Operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, the proposed license condition establishes a new requirement relating to scheduling of modifications and engineering evaluations. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Operation of the facility in accordance with this proposed change will not involve a significant reduction in any margin of safety.

As discussed above, the proposed license condition establishes a new administrative requirement intended to enhance public safety and reliable plant operation. It does not affect any accident analysis or involve any modification to the plant configuration or operation. Therefore, the proposed change does not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 20, 1991

Description of amendment request: The proposed amendment to the Technical Specifications would change the limitations associated with the Regulatory Control Element Assembly (CEA) insertion limits during hot standby and power operations for Technical Specifications 2.10.2(7) and 2.10.2(7)c. Also, the proposed amendment modifies Technical Specification 2.10.2(9)b(i) to achieve consistency with the Combustion Engineering (CE) Standard Technical Specifications (STS) as contained in NUREG-0212, Revision 2.

Basis for proposed no significant hazards consideration determination: The first part of the proposed amendment to the Technical Specifications deals with limitations associated with Regulatory CEA insertion limits. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment does not involve a significant hazards consideration because the operation of Fort Calhoun Station in accordance with this amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendment changes the CEA long term insertion limits in the third (or longest time interval) category from "14 EFPD [Effective Full Power Days] per calendar year" to "14 EFPD per fuel cycle." Since a fuel cycle is greater than a calendar year, the proposed changes are more conservative. Evaluation of the impact of CEA insertions on the fuel residing in the core for a given fuel cycle is also more appropriate than evaluating the insertions on a calendar year basis, which may impact two fuel cycles.

(2) Create the possibility of a new or different kind of accident. It has been determined that a new or different type of accident is not created because no new or different modes of operation result from this change.

(3) Involve a significant reduction in the margin of safety. The CEA insertion duration limits proposed by this change are more conservative than the current Technical Specifications. Therefore, the margin of safety remains unchanged.

The second part of the proposed amendment to the Technical Specifications deals with achieving consistency with the CE Standard Technical Specifications (STS). As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment does not involve a significant hazards consideration because the operation of Fort Calhoun Station in accordance with this amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes result in a consistency between the Fort Calhoun Station Technical Specifications and the NUREG-0212 Revision 2 CE Standard Technical Specifications for the STS 3/4.10.1 exception on required shutdown margin during measurement of CEA worths. Maintaining an available shutdown margin equivalent to at least the highest estimated CEA worth during CEA worth measurement ensures the reactor can be adequately shut down if the need arises. Thus, the proposed change establishes a consistency with the STS while not significantly deviating from the existing Specifications 2.10.2(9)b(i)1 and 2.10.2(9)b(i)2 and does not increase the probability or consequences of a previously evaluated accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. It has been determined that a new or different type of accident is not created because no new or different modes of operation are proposed for the plant. Maintenance of an adequate available shutdown margin, defined as the reactivity equivalent to the highest estimated CEA worth, prevents possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. The available shutdown margin is allowed to be reduced for CEA measurements which confirm core design and further insure shutdown margin Mode 1 operations. The brief time period the shutdown margin is reduced is deemed acceptable as confirmed by the current allowed reduction for shutdown CEA worth measurements and also in the CE Standard Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Project Director: John T. Larkins

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: December 11, 1991

Description of amendment request: The proposed amendment would change the Technical Specifications in support of the ensuing Unit 1, Cycle 7 reload (U1C7). Changes to the following Technical Specifications and Bases are requested:

a. 3/4.2.1Average Planar Linear Heat Generation Rate

b. 3/4.2.2APRM Setpoints

c. 3/4.2.3Minimum Critical Power Ratio

d. 3/4.2.4Linear Heat Generation Rate

e. 3/4.4.1Recirculation System (Two Loop Operation)

f. 3/4.4.1Recirculation System (Single Loop Operation)

g. 5.3.1Fuel Assemblies The references discussed in the analysis below are available with the incoming application.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following three questions are addressed for each of the proposed Technical Specification changes:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

3. Does the proposed change involve a significant reduction in a margin of safety?

a.) Specification 3/4.2.1, Average Planar Linear Heat Generation Rate

The changes to this specification are completely editorial in nature in that they reflect that there will be no 8X8 fuel in the U1C7 core, and therefore all references to it are being removed. Also, references to "ANF" are updated to "SNP."

1. No. The changes are totally editorial in nature. No limits are being changed. References to ANF 8X8 fuel are dropped since this fuel type will not reside in the U1C7 core. These changes cannot impact the probability or consequences of an accident previously evaluated.

2. No. See 1. above.

3. No. See 1. above.

b.) Specification 3/4.2.2, APRM Setpoints

The changes to this specification are editorial in nature. They update "ANF" references to "SNP," correct words that were

inadvertently reversed, and relocate some figure labels.

1. No. Each change cited above is editorial in nature. No technical changes are proposed that could impact any previously evaluated event.

2. No. See 1. above.

3. No. See 1. above.

c.) Specification 3/4.2.3, Minimum Critical Power Ratio [MCPR]

The changes to this specification support new MCPR operating limits based on the PP&L reactor analysis methods described in Reload Summary Report Reference 3. The limits calculated for U1C7 will be a function of scram speed. Therefore, the requirements have been revised to reflect this basis.

1. No. The MCPR Operating Limits for U1C7 were generated using PP&L's reactor analysis methods described in PP&L reports PL-NF-87-001-A (See Reload Summary Report Reference 1), PL-NF-89-005 (See Reload Summary Report Reference 2), PL-NF-90-001 (See Reload Summary Report Reference 3) and corresponding supplements (See Reload Summary Report References 4, 5, 6, and 38). As a result of these analyses delta CPRs were generated, and after combining with the MCPR Safety Limit as calculated by SNP, MCPR operating limits were developed as MCPR versus Percent of Rated Core Flow and MCPR versus Percent of Rated Core Thermal Power. These limits cover the allowable operating range of power and flow. As specified in PL-NF-90-001, seven major events were analyzed. These events can be divided into two categories: Core Wide Transients and Local Transients; the wide transient events analyzed were:

1) Generator Load Rejection Without Bypass (GLRWOB),

2) Feedwater Controller Failure (FWCF),

3) Recirculation Flow Controller Failure - Increasing Flow (RFCF), and

4) Loss of Feedwater Heating (LOFWH).

As discussed in PL-NF-90-001, the other core wide transients are non-limiting (i.e, they would produce lower calculated delta CPRs than one of the above four events). The local transient events analyzed were:

1) Rod Withdrawal Error (RWE), and

2) Fuel Loading Error (FLE).

The fuel loading error evaluation includes analysis of both rotated and mislocated fuel assemblies.

Sufficient analyses were performed to define the MCPR operating limits as a function of core power, core flow, and scram speed. These limits were also determined for three plant equipment availability conditions:

1) Main Turbine and EOC-RPT operable,

2) Main Turbine Bypass inoperable, and

3) EOC-RPT inoperable.

Core-Wide Transients

The PP&L RETRAN model and methods described in PL-NF-89-005 (See Reload Summary Report Reference 2), PL-NF-90-001 (See Reload Summary Report Reference 3), and corresponding supplements (See Reload Summary Report References 4, 5, 6 and 38), were used to analyze the GLRWOB, FWCF, and RFCF events. The delta CPRs were evaluated using the XN-3 Critical Power Correlation (See Reload Summary Report Reference 26) consistent with the methods described in PL-NF-90-001. The GLRWOB and FWCF events were analyzed based on an average scram speed of 4.4 feet/second and the minimum allowed Technical Specification scram speed. Thus, given that these two events are limiting, the Technical Specification power dependent MCPR operating limits determined for U1C7 will be a function of scram speed for the three plant equipment availability conditions as discussed above. The RFCF event was conservatively analyzed at the Technical Specification scram speed. The RFCF event is the limiting event in determining the Technical Specification flow dependent MCPR operating limits for U1C7. The delta CPR results for the GLRWOB, FWCF, and RFCF are provided in Reload Summary Report Tables 3, 4, and 5 respectively.

The LOFWH event was conservatively analyzed by PP&L using the steady state core physics methods described in PL-NF-90-001 as supplemented in Reload Summary Report Reference 5. The delta CPR calculated for the LOFWH event is 0.11 and is bounded by the results of the three core wide transients.

Local Transients

The RWE and FLE (rotated and mislocated bundle) were analyzed using the methodology described in PL-NF-87-001-A (See Reload Summary Reference 1), PL-NF-90-001 (See Reload Summary Report References 3), and corresponding supplements (See Reload Summary Reports References 5 and 6). The delta CPR resulting from the RWE analysis (based on a Rod Block Monitor setpoint of 108%) and the delta CPRs resulting from the FLE analyses are provided in Reload Summary Report Table 6. The results of these events are bounded by those of the GLRWOB, and thus these events are non-limiting for U1C7.

Based on the above, the methodology used to develop the new MCPR operating limits for the Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The methodology and results described above can only be evaluated for their effect on the consequences of analyzed events; they cannot create new ones. The consequences of analyzed events were evaluated in 1. above.

3. No. Based on 1. above, the methodology used to generate the MCPR operating limits for U1C7 is both sufficient and conservative. Furthermore, although the methodology (PL-NF-90-001) is still undergoing NRC review, PP&L believes it meets all pertinent regulatory criteria for use in this application. Therefore, its use will not result in a significant decrease in any margin of safety.

d.) Specification 3/4.2.4, Linear Heat Generation Rate

The changes to this specification are editorial in nature. They delete references to 8X8 fuel, which will not reside in the U1C7 core, and update a reference from "ANF" to "SNP."

1. No. The changes are editorial in nature. No technical methods or limits are proposed to be revised; references are changed to reflect the fuel type that will reside in the U1C7 core. These changes cannot impact the probability or consequences of any previously evaluated event.

2. No. See 1. above.

3. No. See 1. above.

e.) Specification 3/4.4.1, Recirculation System (Two Loop Operation)

The changes to this specification (i.e., Figure 3.4.1.1.1-1) reflect the results cycle-specific stability analysis.

1. No. COTRAN core stability calculations were performed by SNP for Unit 1 Cycle 7 to determine the decay ratios at predetermined power/flow conditions. The resulting decay ratios (See Reload Summary Report Table 2) were used to define operating regions which comply with the interim requirements of NRC Bulletin No. 88-07, Supplement 1 "Power Oscillations in Boiling Water Reactors," (See Reload Summary Report Reference 18). As in the previous cycle, Regions B and C of the NRC Bulletin have been combined into a single region (i.e., Region II), and Region A of the NRC Bulletin corresponds to Region I.

Region I has been defined such that the decay ratio for all allowable power/flow conditions outside of the region is less than 0.90. To mitigate or prevent the consequences of instability, entry into this region requires a manual reactor scram. Region 11 has been defined such that the decay ratio for all allowable power/flow conditions outside of the region (excluding Region I) is less than 0.75. For Unit 1 Cycle 7, Region II must be immediately exited if it is inadvertently entered.

In addition to the region definitions, PP&L has performed stability tests in SSES, Unit 2 over the course of Cycles 2, 3 and 4 to demonstrate stable reactor operation with SNP 9X9 fuel. The test conditions covered a range from a mixed core of SNP 9X9 and GE 8x8R fuel (Cycles 2 and 3) to a full core of SNP 9x9 fuel (Cycle 4). Reload Summary Report Reference 19 provided an NRC evaluation of the test data and concluded that the use of 9X9 fuel does not produce significant changes in stability behavior as compared to BWRs loaded standard 8X8 fuel. Based on the above, operation within the limits specified by the proposed changes will ensure that the probability and consequences of unstable operation will not significantly increase.

2. No. The methodology described above can only be evaluated for its effect on the consequences of unstable operation; it cannot create new events. The consequences were evaluated in 1. above.

3. No. PP&L believes that the use of Technical Specifications that comply with NRC Bulletin 88-07 Supplement 1, and the tests and analyses described above, provide assurance that SSES, Unit 1 Cycle 7 will comply with General Design Criteria 12, Suppression of Reactor Power Oscillations. This approach is consistent with the SSES, Unit 1 Cycle 6 method for addressing core stability (See Reload Summary Report References 10 and 11). Therefore, no margin of safety will be significantly reduced as a result of the proposed changes.

f.) Specification 3/4.4.1, Recirculation System (Single Loop Operation)

The changes to this specification are either evaluated above or are editorial in nature. The changes to the single loop limits for

Specification 3.2.3 are the result of the MCPR operating limit analyses evaluated above.

1. No. the changes are either evaluated elsewhere in the No Significant Hazards Considerations evaluation, or are editorial in nature.

2. No. See 1. above.

3. No. See 1. above. 1*g.) Specification 5.3.1, Fuel Assemblies*

The proposed changes reflect that the U1C7 core will contain only 9X9 fuel, and the reference to Zircaloy-2 cladding has been editorially relocated for consistency with the wording in the Susquehanna, Unit 2 Technical Specifications.

1. No. The proposed changes are editorial to reflect the configuration of the U1C7 core, (i.e., all 9X9 fuel), and to insert a minor word change for clarity and consistency with the Unit 2 Technical Specifications. These changes cannot impact the probability or consequences of any previously evaluated event.

2. No. See 1. above.

3. No. See 2. above.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Charles L. Miller

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: December 11, 1991

Description of amendments request: The proposed change removes the 3.25 limitation for three consecutive intervals from Technical Specification (TS) 4.0.2. It also clarifies the Bases for TS 4.0.2 to reflect the increased flexibility for scheduling surveillances in accordance with the guidance provided by Generic Letter 89-14, "Line-Item Improvements in Technical Specifications-Removal of the 3.25 Limit on Extending Surveillance Intervals."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The surveillance intervals will continue to be constrained by the 25 percent limit. For surveillance required during refueling shutdown, the risk associated with exceeding the 3.25 limit is outweighed by the risk associated with a forced shutdown to perform the surveillance. In addition, deletion of the 3.25 limit actually realizes a safety benefit by permitting surveillance intervals to be extended such that performance of "at power" surveillance may be accomplished while the plant is shut down, thus minimizing the risk of an unnecessary transient. Existing equipment surveillance requirements are not affected by this license amendment and the extension of surveillance intervals will continue to be limited by the allowable 25 percent extension limit discussed above. The equipment on which the surveillances are being performed will continue to be proven operable and will continue to be available to respond to and mitigate any previously evaluated transients or accidents. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change will not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change would not result in any physical alteration to any plant system, nor would there be a change in the method in which any safety related system performed its function. The change would not result in any equipment being operated in a manner different than that in which it was designed to be operated.

3. The proposed change does not involve a significant reduction in a margin of safety. Deletion of the 3.25 limit will not significantly affect equipment reliability, rather it will reduce the potential for interrupting normal plant operation due to surveillance scheduling. Surveillance intervals will continue to be constrained by the 25 percent limit which is sufficient to ensure reliability for surveilled equipment. The added flexibility in scheduling surveillances afforded by deletion of the 3.25 limit should have a positive safety benefit by allowing surveillances to be performed under appropriate plant conditions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, P. O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Elinor G. Adensam

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: November 25, 1991

Description of amendment requests: The licensee proposes to revise Technical Specifications 3/4.7.8, "Fire Suppression Systems" and 3/4.8.1, "Electrical Power Systems." The first proposed revision deletes the existing surveillance restriction 4.7.8.1.2.c that requires the diesel fire pump surveillance to be performed during shutdown. The second revision corrects misidentified electrical circuit breakers listed under surveillance requirement 4.8.1.1.1.a. The licensee characterizes both revisions as administrative changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The function of the fire pump diesel engine is to provide power to the backup fire pump P220 for Units 2 and 3. Pump P220 provides redundancy to the two electrical-driven fire pumps P221 and P222. The proposed change clarifies that plant shutdown is not required to perform the 18 month surveillance of the diesel engine. This clarifies that performance of the surveillance is allowed at any time, including when one or both Units 2 or 3 are in operation. Action statement 3.7.8.1 provides an allowed outage time of 7 days for the fire pump diesel engine. Based on previous experience, maintenance is expected to take less than 7 days. The surveillance has no effect on plant configuration or operation and takes place in the yard outside containment. Therefore, the proposed change will not significantly increase the probability or consequences of previously evaluated accidents.

The A.C. sources of the electrical power system provide a source of power from the offsite transmission network. The proposed change corrects a misidentification of tie breakers 2A0417 and 2A0619 for Unit 3. This is an editorial change and has no effect on the plant. Therefore, the proposed change will not significantly increase the probability or consequences of previously evaluated accidents.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

The 18 month interval of the fire pump diesel engine inspection is unaffected by the proposed Technical Specification change so that reliability and availability of the diesel engine are unaffected. There is no change in the design, configuration or accident analysis assumptions of the facility. This surveillance is performed in the yard area outside containment and has no effect on plant status or operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

The proposed Technical Specification change to the A.C. Power Sources is a correction of a misidentification of two circuit breakers. This is an editorial change and has no effect on facility configuration or operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change to the fire pump diesel engine Surveillance requirement does not change the 18 month inspection interval. Performing the surveillance typically renders the diesel engine INOPERABLE for approximately 18 hours, and the combined surveillance and maintenance have been performed within the 7 day allowed outage time. Additionally, the intertie with the Unit 1 fire suppression system can be used as an alternate backup. There is no change in the reliability or availability of this redundant equipment. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The proposed change to the electrical systems Surveillance Requirements corrects a misidentification of two circuit breakers. It is an editorial change and does not affect facility configuration, operation, or accident analysis assumptions. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: November 27, 1991 (TS 91-16)

Description of amendment request: The proposed Technical Specification (TS) amendment would modify Table 3.3-3 (Engineered Safety Feature Actuation System Instrumentation), Item 7 (Loss of Power), by replacing the reference to Action Statement 20 with reference to new Action Statements 34 or 35. Items 7.a.2 and 7.b, which address the 6.9-kilovolt (kv) shutdown board load shedding and degraded voltage instrumentation, would then reference Action Statement 34.a and result in retaining the present required actions in the event that the number of operable channels is one less than the Total Number of Channels listed in the table. However, in the event that the number of operable channels is less than the Total Number of Channels listed in the table by more than one, the new Action Statement 34.b would allow continued operation provided that the associated 6.9-kv shutdown board is declared inoperable and the actions specified in Specification 3.8.2.1 or 3.8.2.2 (as applicable) are complied with.

Item 7.a.1 of Table 3.3-3 addresses operability of the 6.9-kv shutdown board diesel generator start instrumentation. In the event that the number of operable channels is less than the Total Number of Channels by one or more, the new Action Statement 35 would require that the diesel generator be declared inoperable and Specification 3.8.1.1 or 3.8.1.2 (as applicable) be complied with.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below.

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant in accordance with the the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to existing TS Table 3.3-3 action requirements for loss of power instrumentation that creates the new Actions 34 and 35 only affect the requirements for instrumentation inoperability. These actions do not alter plant configurations for accident mitigation equipment, but provide acceptable time requirements for inoperabilty and provide for instrumentation conditions that are consistent with plant design. The revised actions will not disable safety-related instrumentation outside of the TS requirements for the associated accident mitigation equipment or allow inappropriate inhibits to safety functions and, therefore, will not significantly increase the consequences of an accident. The functions of the instrumentation remain the same; only the actions for inoperability are modified. The proposed changes to these TS actions do not alter plant equipment configurations such that the potential for an accident is impacted. The affected instrumentation and associated equipment are utilized for accident mitigation and are not considered to be the source of any accident. Therefore, the probability of an accident previously evaluated is not increased.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

As discussed above, only accident mitigation equipment is affected by the proposed changes. The equipment functions have not been altered; only the actions for inoperability have been modified to allow TS-required testing. Therefore, no equipment postulated to created an accident is impacted, and the possibility of a new or different kind of accident is not increased.

3. Involve a significant reduction in a margin of safety.

These proposed changes do not alter the functions of any safety-related equipment. All accident mitigation functions will remain the same, and actions for inoperable instrumentation will provide for TS-required testing. This will allow for operability testing of equipment used to mitigate accidents to ensure margins of safety are not impacted. The changes to the actions for inoperable loss of power instrumentation are still consistent with the actions for the associated equipment. Therefore, a significant reduction in any margin of safety is not involved as a result of the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: December 18, 1991

Description of amendment request: The proposed amendment would revise Technical Specification 5.3.2 to allow the use of a control rod design containing hafnium metal and/or boron

carbide powder as a neutron absorbing material.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated:

The use of hafnium as a neutron absorbing material has been specificially approved by the NRC for use in BWR control rod assemblies. Use of approved control rod designs and materials will not significantly alter the neutron absorption (reactivity worth), mechanical properties (e.g. corrosion resistance) or other functional characteristics (e.g. weight and dimensions) of the control rods. The control rods are designed to be neutronically and physically compatible with the existing rod design. Since their characteristics are similar to the existing design, the probability of an accident and the consequences of an accident are not significantly increased. The proposed change does not alter the required number of control rods nor does it affect any of the specifications relating to the control rods (e.g. the shutdown margin and scram timing requirements are unaffected). Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated:

The use of NRC approved control rod designs using hafnium as an absorber material does not produce any new mode of plant operation or alter the control rods in such a way as to affect their function or operability since the new control rods are designed to be compatible with the existing control rods. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety:

The proposed change does not significantly affect the neutronic or mechanical characteristics of the control rods since the hafnium-containing control rods are designed to be compatible with the existing design and reload licensing criteria, therefore, there is no significant change in the margin of safety. It does not change the required number of existing control rods. It does not affect the existing Technical Specifications related to control rods i.e., required shutdown margin, scram time, etc. The margins of safety will be verified in accordance with 10 CFR 50.59 as part of the reload development and review process. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: November 22, 1991

Description of amendment request: The proposed changes would revise Callaway Plant Technical Specifications (TSs) 3/4.3.2 and 3/4.7.6 concerning the control room emergency ventilation system, and its associated isolation instrumentation to allow an exception to TS 3.0.4, which prevents entry into an operational mode unless the conditions of the Limiting Conditions for Operation are met. The proposed change would allow mode changes in MODES 5 and 6, while operating in compliance with the existing ACTION statements. This proposed change is consistent with the guidance of Generic Letter 87-09, which allows exceptions to TS 3.0.4, where existing ACTION statements allow continued operation for an unlimited time period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed changes to Technical Specifications 3.3.2 and 3.7.6 do not involve a significant hazards consideration because operation of Callaway Plant with these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes do not effect [sic] equipment involved in the initiation of previously evaluated accidents. The probability of such accidents is therefore not increased. The CREVS and its actuation instrumentation function to mitigate the consequences of accidents by maintaining control room habitability. The proposed change does not alter the design or method of operation of the Control Room Emergency Ventilation System or its actuation instrumentation. The revised ACTIONS would allow Callaway Plant to make operational changes while operating in accordance with existing ACTIONS which allow continuted operation for an unlimited period of time after the system has been placed in its Emergency (recirculation) mode of operation. Operational MODE changes within the bounds of the ACTION would not degrade the capability of the Control Room Emergency Ventilation System to mitigate an accident, therefore, the consequences of previously analyzed accidents are not increased by the proposed changes.

2. Create the possibility of a new or different kind of accident from any previously evaluated. The proposed changes do not introduce any new type of accident or malfunction and the method and manner of plant operation remain unchanged. Since the proposed changes do not introduce any new or revised failure modes, a new or different kind of accident could not occur.

3. Involve a significant reduction in a margin of safety. There are no plant design changes involved and no changes are being made to the safety limits or safety system settings that would adversely impact plant safety. Operating mode changes within the constraints of the action statements do not reduce the level of protection provided by the CREVS; therefore, margins of safety are not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 18, 1991

Description of amendment request: The proposed amendment would revise Technical Specification 4.5.2.h to change the charging and safety injection pump flows and to revise the requirements for performing a flow balance test on an ECCS subsystem.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed change does not involve a significant hazards consideration because operation of Callaway Plant with this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The Callaway Safety

Analysis has been reviewed and been found to be unaffected by this proposed change. The design of the ECCS piping, valves, and pumps has been reviewed and found adequate to support operation with increased flow. The Callaway Safety Analysis has been evaluated based on the proposed changes to the ECCS flow criteria. The consequences of any accident or malfunction of equipment has not increased. Performing a flow balance test on just the affected ECCS Subsystem has no effect on any accident as the intent of the Technical Specifications is being met.

2. Create the possibility of a new or different kind of accident from any previously evaluated. There is no new type of accident or malfunction created and the method and manner of plant operation remains unchanged.

3. Involve a significant reduction in a margin of safety. The margin of safety remains unaffected since no design change is made and ECCS operation remains the same.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: December 23, 1991

Description of amendment request: The proposed amendment would revise the Vermont Nuclear Power Station's (VNPS) Technical Specifications by effecting a change in surveillance requirements resulting from the upgrade of mechanical-actuated instrumentation, differential pressure switches, with an analog trip system. This instrumentation would provide the Main Steam Line High Flow inputs to the Primary Containment Isolation System Logic.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to extend the high steam line flow calibration interval from every three months to once/operating cycle reflects the replacement of differential pressure switches with analog instrumentation. The proposed calibration interval is consistent with those previously approved for similar analog instrumentation utilized at Vermont Yankee (References b, c, and d). A calibration interval of once/operating cycle has been demonstrated to be appropriate for similar instrumentation installed at Vermont Yankee. The requested change to the existing calibration interval does not impact any FSAR safety analysis. Under this proposed change, operability is assured and valve closure functions for preventing excessive loss of reactor coolant and release of significant amounts of radioactive material from the nuclear system process barrier are provided. Therefore, it is concluded that the proposed change does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed change to increase the calibration interval for high steam line flow instrumentation meets the intent of Technical Specification requirements for assuring operation of equipment as designed. Based upon past operational history for similar instrumentation installed at Vermont Yankee, performance of calibration requirements once/operating cycle will adequately assure operation as designed. The proposed change does not involve any change in Technical Specification setpoints, plant operation, redundancy, protective function or design basis of the plant. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change represents an increase in safety since existing instrumentation is being replaced with newer more reliable instrumentation while maintaining system function and design basis. The occurrence of trip system inoperability during the performance of calibration or following calibration due to possible human error is reduced by requiring less frequent calibration. In addition, the potential for inadvertent steam line isolations or challenges to plant systems and operation is reduced by providing the option of performing calibration during plant shutdown. Based upon the above, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: December 27, 1991

Description of amendment request: The proposed amendment would: (1) Delete specific supervisory titles from Section 6.2 of the Technical Specifications relative to the composition of the Plant Operations Review Committee (PORC) and authorize the Plant Manager to appoint members, and (2) reinstate the surveillance frequency required for testing automatic closure of the primary containment isolation valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis the essence of which is provided below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendment is strictly administrative in nature. The first part of the proposed amendment removes the specific position titles listed in Technical Specifications for managerial personnel responsible for the membership on the Plant Operations Review Committee (PORC). The quality of representation remains unaltered. The second part of the proposed amendment restores a previously existing surveillance requirement for the primary containment isolation valves, which was inadvertently deleted in recent

Amendment No. 128 to the facility Operating License. (In the interim, plant procedures will continue to ensure that the surveillance is performed.)

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. No physical changes are being made to the plant and no new testing techniques or procedures are being proposed. The proposed amendment does not affect the quality or level of expertise for managerial personnel who constitute the PORC, and does not change the previously existing surveillance requirement for primary containment isolation valves.

3. The proposed amendment will not involve a significant reduction in a margin of safety. The proposed amendment does not alter the existing criteria for managerial personnel who constitute the PORC, nor does the proposed amendment change surveillance requirements for primary

containment isolation valves from those that existed prior to issuance of Amendment No. The net effect of the proposed change is to reduce the frequency of administrative Technical Specification changes made necessary by a supervisory title change, and to reinstate previously existing surveillance requirement for the primary containment isolation valves.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624.

NRC Project Director: Walter R. Butler

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: November 20, 1991

Description of amendment request: This amendment would revise the Technical Specifications (TS) in Section 6, "Administrative Controls." The amendment is being requested to reflect recent organizational changes at Wisconsin Public Service Corporation (WPSC), the licensee for the Kewaunee Nuclear Power Plant. Administrative changes are also being proposed dealing with format and typographical inconsistencies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

This proposed amendment reflects organizational changes at Wisconsin Public Service Corporation. These revisions do not change the intent of the Technical Specifications or decrease WPSC's management support or involvement in activities at the Kewaunee Plant.

Therefore, the proposed changes pose no significant hazards for the following reasons:

1. The proposed changes will not result in a significant increase in the probability of occurrence or consequences of an accident.

2. The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

3. The proposed changes will not involve a significant decrease in the margin of safety.

The proposed changes are similar to example C.2.e.i in 51 FR 7751. Example C.2.e.i is given to describe purely administrative changes that are, therefore, not likely to involve a significant hazard.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: December 12, 1991

Description of amendment request: This amendment would revise the Technical Specifications (TS) in Section 3.5, "Instrumentation System," Table TS 3.5-6, "Instrumentation Operating Conditions for Indication," and Table TS 4.1-1, "Minimum Frequencies for Checks, Calibrations and Test of Instrument Channels." The proposed amendment would add operability and surveillance requirements for the reactor vessel level indication instrumentation which was installed at Kewaunee in 1987 as part of the instrumentation to detect inadequate core cooling. Administrative changes are also being proposed dealing with format and typographical inconsistencies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The proposed changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are consistent with the guidance provided in NRC Generic Letter 83-37. Specifically, surveillance requirements, limiting conditions for operation, and required actions are provided for the instrumentation. These new specifications help to ensure instrument reliability and availability, and add restrictions not presently included in the TS. The other proposed changes are administrative in nature. Hence, the probability or consequences of an accident previously evaluated would not be increased.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes would not alter the plant configuration, operating set points or overall plant performance. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created.

3. Involve a significant reduction in the margin of safety.

The proposed changes include enhancements to the specifications and additional controls and limitations. Hence, overall plant safety would be enhanced, and the margin of safety would not be reduced.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Previously Published Notices Of Consideration Of Issuance Of Amendments To Operating Licenses And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: December 15, 1991

Description of amendment request: The amendment would revise: (1) Trojan Technical Specification (TTS) Section 3.4.6.2.c, "Operational Leakage," and Bases 3/4.4.5, "Steam Generators," and 3/4.4.6.2, "Operational Leakage," to reduce the total allowable primary-to-secondary leakage for any one steam generator from 500 gallons per day (gpd) to 130 gpd and to reduce the total allowable primary-to-secondary leakage through all steam generators from one gallon per minute (gpm) to 400 gpd; and, (2) Technical Specification Surveillance Requirement 4.4.5.4.a.6, "Repair Limit," and associated Bases will be modified to clarify that the percent tube wall degradation criteria is inappropriate to determine serviceability of tubes with outer diameter stress corrosion cracking/intergranular attack (ODSCC/IGA) at tube support plate (TSP) intersections. Rather, the appropriate method for determining serviceability for tubes with ODSCC/IGA at TSP intersections is by a methodology that more reliably assesses structural integrity. TTS 4.4.5.4.a.6 and the associated Bases will indicate that this change is applicable only for Operating Cycle 14. Date of publication of individual notice in **Federal Register:** December 31, 1992 (56 FR 67638)

Expiration date of individual notice: January 30, 1992

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Notice Of Issuance Of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: August 9, 1991, as supplemented October 10, 1991, and December 18, 1991.

Brief description of amendments: The amendments delete eighteen tables, and references to those tables, from the Zion Technical Specifications. The tables, which consisted of component lists, were proposed to be deleted based on the guidance provided in NRC Generic Letter 91-08.

Date of issuance: January 3, 1992

Effective date: January 3, 1992

Amendment Nos.: 131 and 120

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 18, 1991 (56 FR 47232) The October 10, 1991, and December 18, 1991, submittals provided additional clarifying information that did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: April 8, 1991, with supplement dated December 12, 1991.

Brief description of amendment: The amendment will change the following sections of the Technical Specifications:

a. 3/4.1.3, Movable Control Assemblies,

b. 3/4.3.1, Table 4.3-1,

c. 3/4.5.1, ECCS Subsystems—Tavg Greater Than or Equal to 3500F and Table 4.5-1,

d. 3/4.7.6, Fire Suppression Systems,

e. 3/4.7.9, Feedwater Isolation Valves and Table 3.7-6,

f. 3/4.9.2, Instrumentation,

g. 3/4.10.2, Physics Test, and

h. BASES—3/4.7.6, Fire Suppression Systems These changes are corrections, clarifications and additions to

Amendment No. 125. Date of Issuance: January 7, 1992

Effective date: January 7, 1992

Amendment No.: 147

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33952) The December 12, 1991, submittal withdrew proposed changes to Technical Specification Sections 3/4.9.4 and 3/4.9.8, which will be resubmitted at a later date. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 7, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: February 21, 1991

Brief description of amendment: The amendment revises the Pressure Temperature Curves in the TS in accordance with Regulatory Guide 1.99, Revision 2.

Date of issuance: December 27, 1991

Effective date: December 27, 1991

Amendment No.: 77

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** November 13, 1991 (56 FR 57694) The Commission's related

evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: September 25, 1991

Brief description of amendment: This amendment revises TS Surveillance Requirement 4.8.4.4.a. reactor protective system electrical protective assemblies channel functional test surveillance interval. The proposed change is in accordance with Generic Letter 91-09, "Modification of Surveillance Interval for the Electrical Protective Assemblies in Power Supplies for the Reactor Protection System."

Date of issuance: December 27, 1991

Effective date: December 27, 1991

Amendment No.: 78

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1991 (56 FR 60115) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: September 24, 1991

Brief description of amendment: This amendment revises the TS by changing the rod block monitor system downscale trip set point to reflect design changes made during the recent refueling outage.

Date of issuance: December 27, 1991

Effective date: December 27, 1991

Amendment No.: 79

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** November 27, 1991 (56 FR 60115) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: August 12, 1991

Brief description of amendment: The amendment revised the Fort Calhoun Technical Specifications, modifying the emergency diesel generator surveillance requirements to reduce the number of diesel generator fast starts.

Date of issuance: December 23, 1991

Effective date: December 23, 1991

Amendment No.: 140

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 1, 1991 (56 FR 47240). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 23, 1991. No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: October 27, 1988, as supplemented by letters dated November 9, 1988, January 9, 1989, July 5, 1989, February 22, 1990, March 20, 1991 and July 31, 1991. The November 9, 1988 and January 9, 1989 letters requested information be treated as proprietary. The additional supplemental letters did not change the initial proposed no significant hazards determination.

Brief description of amendments: These amendments made changes to the Technical Specifications related to the reactor protection system, revising surveillance test intervals and allowed outage times.

Date of issuance: December 30, 1991

Effective date: December 30, 1991

Amendment Nos.: 115 and 84

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **FEDERAL REGISTER:** December 14, 1988 (53 FR 50333) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 31, 1990, and supplemented October 31, 1990, December 5, 1990, June 26, 1991, July 12, 1991, July 16, 1991, and September 19, 1991

Brief description of amendment: The amendment revises the Technical Specifications to allow for the expansion of the spent fuel pool storage capacity from the current 2244 fuel assemblies to the proposed 2797 fuel assemblies.

Date of issuance: December 31, 1991

Effective date: December 31, 1991

Amendment No.: 175

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** July 24, 1990 (55 FR 30051) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1991 and an Environmental Assessment dated December 13, 1991. No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of Oswego, Oswego, New York 13126.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: April 2, 1990

Brief description of amendments: These amendments increased the allowable isolation times associated with the feedwater control valves and established consistent isolation times for Salem, Units 1 and 2.

Date of issuance: January 2, 1992

Effective date: As of the date of issuance and to be implemented within 60 days of the date of issuance.

Amendment Nos. 132 and 111

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 16, 1991 (56 FR 51930) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 2, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: December 7, 1990, as supplemented June 11, 1991, and August 26, 1991

Brief description of amendment: The amendment changes the TS to specify that training for the unit licensed staff shall be in accordance with 10 CFR 55.59(c) and 55.31(a)(4). It also specifies that training for personnel other than unit licensed staff shall be in accordance with Section 5.5.2 of American National Standards Institute ANS 3.1 - 1981.

Date of issuance: December 24, 1991.

Effective date: December 24, 1991.

Amendment No.: 106.

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22477) and November 13, 1991 (56FR 57704)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 24, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: July 1, 1991, as supplemented October 18, 1991.

Description of amendments request: The amendments change the Technical Specifications to increase enrichment to a nominal 5.0 weight percent U-235 for optimized fuel assemblies (OFA) and for VANTAGE-5 fuel assemblies taking credit for the presence of integral fuel burnable absorbers (IFBA).

Date of issuance: December 30, 1991

Effective date: December 30, 1991

Amendment Nos.: 91 and 84.

Facility Operating License Nos. NPF-2 and NPF-8: Amendments revise the Technical Specifications

Date of initial notice in **Federal Register:** August 21, 1991 (56 FR 41575) and November 13, 1991 (56 FR 57688)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: August 21, 1989, as supplemented September 1, 1989.

Brief description of amendment: The amendment removed all line items using the term "status" from the Technical Specification (TS) Tables regarding post-accident monitoring instrumentation, removed the line item on containment vessel hydrogen from the same TS Tables, added a monthly channel check for the hydrogen analyzers to TS 3/4.6.4, changed the bases regarding hydrogen analyzers, and made several administrative changes.

Date of issuance: December 17, 1991

Effective date: December 17, 1991

Amendment No. 167

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 2, 1991 (56 FR 49929) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 17, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: November 8, 1990, as supplemented May 31, 1991 and clarified October 8, 1991.

Brief description of amendments: These amendments provide allowed outage times (AOTs) and operator actions for the engineered safeguards instruments. In addition, the amendments incorporate the operability and surveillance requirements for the feedwater isolation/turbine trip instruments in accordance with Generic Letter 89-19.

Date of issuance: December 30, 1991

Effective date: December 30, 1991

Amendment Nos. 165 and 164

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24222) The May 31 and October 8, 1991 letters provided supplemental information which did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1991. No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: February 21, 1991

Brief description of amendment: The amendment revised Table 4.3.6-1, of the technical specifications, to increase the surveillance intervals for channel functional tests of the control rod block instrumentation from monthly to quarterly.

Date of issuance: December 26, 1991

Effective date: December 26, 1991

Amendment No.: 97

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37592) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 26, 1991. No significant hazards consideration comments requested: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 27, 1991, as supplemented by letter dated September 11, 1991.

Brief description of amendment: The amendment revises Section 6.0 of the Technical Specifications to reflect miscellaneous changes to the administrative controls. Modifications include title changes of plant personnel, updated references, and clarifications regarding individuals responsible for

assuming Control Room command and control.

Date of Issuance: December 24, 1991

Effective date: December 24, 1991

Amendment No.:

Amendment No. 54

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13672) The September 11, 1991, submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 24, 1991. No significant hazards consideration comments received: No. Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Dated at Rockville, Maryland, this 13th day of January 1992.

For the Nuclear Regulatory Commission

Bruce A. Boger,

Director, Division of Reactor Projects - III/IV/V Office of Nuclear Reactor Regulation

[FR Doc. 92-1393 Filed 1-21-92; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 040-08724, License No. SUB-1357 EA 91-060]

Chemetron Corporation Newburgh Heights, OH; Order Imposing Civil Monetary Penalty

I

Chemetron Corporation (Licensee) is the holder of Source Material License No. SUB-1357 issued by the Nuclear Regulatory Commission (NRC or Commission) on June 12, 1979. The License authorizes the Licensee to store and possess depleted uranium contamination incident to conducting radiation surveys and decontamination of facilities, equipment and plant areas at 2910 Harvard Avenue, Newburgh Heights, Ohio, in accordance with the conditions specified therein. Previously, on October 8, 1965, the Atomic Energy Commission (predecessor agency of the NRC) issued Source Material License No. SUB-852 which authorized the Licensee to use depleted uranium compounds in the manufacture of a chemical catalyst at 2910 Harvard Avenue, Newburgh Heights, Ohio, in accordance with the conditions specified therein. Source Material License No. SUB-852 was in effect until superseded on June 12, 1979, with the issuance of Source Material License No. SUB-1357.

II

An inspection of the Licensee's activities was conducted from March 19 through April 15, 1992. The results of the inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated August 14, 1991. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee has violated, and the amount of the civil penalty proposed for the violation. The Licensee responded to the Notice by letter dated September 20, 1991. In its response, the Licensee requested that the severity level of the violation be reduced or the amount of the proposed civil penalty be mitigated in its entirety.

III

After consideration of the Licensee's response and the statements of fact, explanation, and arguments for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $7,500 within 30 days of the date of this Order, by check, draft, electronic transfer or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 13th day of January 1992.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Appendix

Evaluation and Conclusion

On August 14, 1991, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for the violation identified during an NRC inspection. Chemetron Corporation responded to the Notice on September 20, 1991. In its response, the Licensee did not contest the violation, but requested that the severity level of the violation be reduced or the amount of the proposed civil penalty be mitigated in its entirety. The NRC's evaluation and conclusion regarding the Licensee's requests are as follows:

I. Restatement of Violation

10 CFR 20.207(a) requires that licensed materials stored in an unrestricted area be secure from unauthorized removal from the place of storage.

10 CFR 20.207(b) requires that licensed materials in an unrestricted area and not in storage be under constant surveillance and the immediate control of the licensee. As defined in 10 CFR 20.3(a)(17), an unrestricted area includes any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials.

Contrary to the above, on March 19, 1991, licensed material consisting of depleted uranium as contamination was located on equipment and in structures in Building Numbers 1, 3B, 3C, 4, 5B, 6, 9, 10, 11, 14, 16A, 16B, 17, 19, and 20 at 2910 Harvard Avenue, Newburgh Heights, Ohio, which are unrestricted areas, and this material was not in storage, was not secured against unauthorized removal, and was not under constant surveillance and immediate control of the licensee.

This is a Severity Level III violation (Supplement IV). Civil Penalty—$7,500

II. Summary of Licensee's Response Concerning Severity Level

The Licensee did not contest the violation. The Licensee contends that the NRC did not give full consideration to the circumstances surrounding the violation. The Licensee argues that the severity level of the violation should be reduced to Level IV, based on the following: (1) The safety significance of the violation is low; (2) the NRC acknowledged that Chemetron's current management was not responsible for the actual violation; (3) the present Chemetron management team identified the violation to the NRC; and (4) Chemetron's remediation efforts were reasonable.

First, the Licensee refers to the NRC's characterization of the contamination as representing a relatively low hazard to the public health and safety. The Licensee also notes that the contamination is limited to an industrial complex, access to which is carefully controlled and is used by only a relatively few individuals.

Second, the Licensee asserts that the NRC's August 14, 1991, letter transmitting the Notice stated that the major factor contributing to the violations was the failure of prior management to recognize the extent of the contamination controls necessary to the project.

Third, the Licensee contends that as early as August 1990 the Licensee identified the spread of contamination.

Fourth, the Licensee concludes that the violation represented an isolated occurrence rather than a programmatic breakdown in the management controls applied to its control of contamination and that its efforts at remediation have been "responsive and effective."

Fifth, the Licensee contends that the violation was not willful in any fashion.

Sixth, the Licensee argues that the NRC has given undue weight to the Licensee's lack of responsiveness to this matter, which it attributes to prior management. The Licensee further asserts that the NRC Enforcement Manual states that the promptness and extensiveness of corrective actions are normally not considered at all for the purposes of determining the severity level and concludes that the NRC should revisit its severity level determination in that regard.

NRC's Evaluation of Licensee's Response Concerning Severity Level

First, with regard to safety significance, the Licensee is correct in stating that the NRC's August 14, 1991, letter transmitting the Notice acknowledged the contamination represents a relatively low hazard to public health and safety. This does not mean that the violation was not of significant regulatory concern. Nor has NRC stated that the level of contamination is not of concern. More than 200 areas of contamination were found in the various buildings with numerous areas in substantial excess of NRC guidelines in Regulatory Guide 1.86 for release for unrestricted use. In fact, the August 14, 1991, letter stated:

"* * * The violation is significant due to the length of time that it has existed, the broad area over which the contamination was spread, and the fact that it may involve equipment, materials and areas that are no longer under the licensee's control. The NRC acknowledges that the contamination represents a relatively low hazard to public health and safety. Nonetheless, non-radiation workers were unnecessarily exposed to licensed material possessed by Chemetron Corporation for which Sunbeam-Oster Company is now responsible * * *"

This statement accurately reflects the situation and categorization of the violation at Severity Level III. Example C.11 of Supplement IV to the NRC enforcement policy provides an example of a Severity Level III violation as the "significant failure to control licensed material." The violation for the failure to control licensed material is significant because of the large area (more than 134,000 square feet in 15 buildings) which had become contaminated and the duration of the violation from the time uncontrolled contamination was first discovered until access to the material was restricted. In this regard, the NRC notes that the Licensee interprets the violation as one of dispersal of the contamination, rather than the failure to maintain control of that material once it was identified. Clearly, both elements are important, but the Licensee failed to establish a restricted area to control access to the contamination. While identifying the areas to which contamination had been previously dispersed is necessary to identify the areas requiring control, the violation stated in the Notice of Violation was of 10 CFR 20.207, and did not involve the actions that caused the dispersal.

The violation described in the Notice concerns the widespread and long-term nature of the contamination and the inadequate controls the Licensee had in place for the purpose of protecting individuals from exposure to radiation and radioactive materials and to prevent the spread of contamination. The NRC's regulatory concern arising from the violation is the Licensee's failure to recognize the significance of controlling access to the contamination, as discussed throughout the appendix. Accordingly, this was not an isolated occurrence, but resulted from inadequate management controls.

The Licensee's characterization that the contamination is limited to an industrial complex, access to which was carefully controlled and which was utilized by a small number of individuals, does not take into consideration that those individuals are not employees of the Licensee and are therefore members of the general public. These workers, through no fault of their own, but through the inadequate controls the Licensee had in place for the purpose of protecting individuals from exposure to radiation and radioactive material, have been exposed to the contamination spread by the activities of the Licensee.

Second, with respect to the Licensee's current management responsibility for the violation, the Licensee accurately points out that the NRC stated that the major factor contributing to the violation was the failure of prior management to recognize the extent of the contamination controls necessary to the project. The NRC recognizes that the Licensee's present management team did not become involved with this project until August 1990 and concludes that the present management team did not cause the prior lack of contamination controls. However, regardless of the cause of the violation, current management is responsible for satisfying all Commission requirements.

Third, the Licensee contends that as early as August 1990 the Licensee identified the spread of contamination. The Licensee did inform the NRC that contamination had been spread to Building 20. However, the Licensee did not act promptly to fully discover the extent of the contamination either in Building 20 or elsewhere nor did it act promptly to regain control over that material. These concerns are reflected in the NRC's letter of January 28, 1991, which transmitted Inspection Report No. 040-08724/91001. That letter stated in part:

"* * * In addition to responding to the violation in the enclosed Notice, we request that you also address the following two concerns that were identified during this inspection:

1. Low level uranium contamination was discovered in Building 20. We are concerned that the building appears to be contaminated above the NRC's release criteria, is an unrestricted area, and it is currently occupied by non-radiation workers.

2. Equipment with low level uranium contamination was discovered in Building 14 which is an unrestricted area. It appears that the contaminated equipment originated from the previously demolished Building 21. We are concerned that thorough surveys have not been performed to determine the extent and level of contamination that may exist in Buildings 14 and 20 and in other unrestricted facilities at Harvard Avenue * * *"

While the Licensee may have identified that contamination was spread to Building 20, the NRC had to inquire whether contamination had been spread elsewhere and whether the Licensee had taken any action to comply with 10 CFR 20.207 or restrict access to that contamination.

Fourth, the Licensee contends that it took reasonable remediation steps in light of other decontamination activities. The Licensee's remediation program concerning the disposal of the previously known contamination from Building 21 is irrelevant to the severity level of the violation. Rather, the Licensee failed to recognize the need to control all contamination, which is the basis for classifying the violation at Severity Level III. The Licensee also contended that the violation represented an isolated occurrence rather than a programmatic breakdown in the management controls applied to its control of contamination. As discussed above, the NRC rejects this position. Moreover, the Licensee's assertion that the violation was an isolated occurrence is refuted by the fact that contamination was found in 15 buildings, none of which were previously within the Licensee's restricted radiation area.

Fifth, the NRC acknowledges that the violation was not willful. The NRC did not assert willfulness as a basis for classifying the violation at Severity Level III.

Sixth, the Licensee's lack of responsiveness in this matter is only partially attributable to

prior management. The NRC staff is most concerned that the Licensee took only limited actions to identify the extent of contamination after first identifying it in August 1990 until the NRC staff, in its letter of January 28, 1991, prodded the Licensee to take more extensive action, and the Licensee took no action to regain control of that contamination until after the NRC identified that lack of control in the March 1991 inspection.

As for the Licensee's argument that the promptness and extensiveness of corrective actions are normally not considered at all for the purposes of determining severity level, the NRC staff does not fully agree. While corrective action after the identification of a violation is considered under the escalation and mitigation factors, the safety significance of the violation, and the corresponding severity level, depends on the opportunity for exposure to ionizing radiation. In this instance, the Licensee did not take appropriate steps to recognize the need to regain control of source material until after the March 1991 inspection, even though it had a reasonable opportunity to identify that need based on the earlier findings of contamination in buildings 14 and 20. Accordingly, the potential for exposure was increased.

Based on the foregoing, the NRC staff concludes that the violation stated in the Notice is properly classified at Severity Level III.

III. Summary of Licensee's Request for Remission of the Civil Penalty

With respect to the "Identification and Reporting" factor, the Licensee contends that it, and not the NRC, identified the violation. Also, the Licensee contends that the NRC's request that the Licensee extend surveys to other buildings does not appear to be the proper subject of the identification and reporting adjustment factor under the NRC Enforcement Policy. Further, the Licensee argues that whether its response was comprehensive is a separate matter to be considered under the corrective actions adjustment factor, which the staff addressed separately. The Licensee quotes the Enforcement Policy as stating that escalation is considered only "if the NRC identifies the violation provided the licensee should have reasonably discovered the violation before the NRC identified it."

The Licensee also contends that its corrective actions were appropriate and reasonable given the Licensee's established priorities for decontaminating the Harvard Avenue facility and the Bert Avenue landfill.

Specifically, the Licensee quotes the Enforcement Manual as stating "[m]itigation of the base civil penalty may be appropriate if there was essentially no other reasonable action that the licensee should have taken," and asserts that it took all reasonable actions to correct the violation, and therefore deserves mitigation of the civil penalty.

Additionally, the Licensee contends that it is unreasonable to expect Chemetron to be able to anticipate all potential locations of contamination. Finally, the Licensee argues that the NRC abused its discretion by considering extraneous matters, i.e., the site characterization and remediation of the Harvard and Bert Avenue sites beyond the contamination of the buildings cited in the violation.

NRC's Evaluation of Licensee's Request for Remission of the Civil Penalty

As discussed above, the NRC agrees that the Licensee identified the contamination of Building 20. However, it was the NRC's letter of January 28, 1991, which specifically requested the Licensee to determine the extent of the contamination in Buildings 14 and 20 and to determine if contamination had been spread to any other unrestricted area at 2910 Harvard Avenue, Newburgh Heights, Ohio. This NRC questioning of the Licensee led to the discovery of contamination in at least 15 buildings, which the Licensee had not considered. In addition, during its March 1991 inspection, the NRC, and not the Licensee, identified the need to restrict access or otherwise regain control of this contamination. The NRC concludes that the Licensee's identification of contamination in Building 20 in August 1990 should have reasonably led it to identify the other areas of contamination and regain control of that contamination. The NRC staff's primary concern is the Licensee's failure to investigate other potentially contaminated locations which would, and should, have resulted in the Licensee's identification of the contamination in the other buildings. The Licensee presents no reasons why it should not have reasonably identified this additional contamination. The Licensee's failure to identify the full extent of the spread of contamination or the need to regain control of the contamination it did identify are the reasons for increasing the amount of the civil penalty by 50 percent under the civil penalty adjustment factor for identification and reporting.

Regarding the Licensee's contention that its corrective actions were reasonable and appropriate considering its other priorities and that the Licensee could not anticipate all locations to which contamination was spread, the NRC acknowledged in the August 14, 1991, letter transmitting the Notice, "* * * your actions were not extensive, though adequate. For instance, current and former employees were not contacted to determine if they had removed any property from the facility and radiation surveys of their homes were not performed. . . ." The Licensee's point that its corrective actions were reasonable and appropriate considering its other priorities is of no relevance as the other priorities to which the Licensee refers are the cleanup of the Harvard and Bert Avenue sites which were known to be contaminated prior to determining that an additional 15 buildings had been contaminated. Further, the fact that the Licensee did not canvass employees to determine what property had been removed from the facility, even after becoming aware that contaminated lumber had been taken from the facility, is indicative of the less than extensive approach the Licensee has taken to ensure that contamination is controlled and removed from the public domain. Therefore, the NRC concluded that no escalation or mitigation of the amount of the civil penalty is appropriate for the Licensee's corrective actions.

Finally, the Licensee argues that the NRC considered extraneous matters, namely the schedule for site characterization and remediation of the Harvard and Bert Avenue sites, which the Licensee considered impermissible, tainting the decision regarding this enforcement action, and was an abuse of discretion. The Licensee is referring to the following passage in the August 14, 1991, letter transmitting the Notice:

"* * * we have concluded that Chemetron Corporation has not been proactive or aggressive in gaining control over all radioactive material under its responsibility and in developing firm time lines and schedules for remediation of all hazards. Consequently, we have concluded that enforcement discretion for the unauthorized removal and loss of control of licensed material would be inappropriate and that a civil penalty should be proposed * * *."

This statement was made as a follow-up to the NRC's May 24, 1991, letter which stated that the NRC was withholding a decision concerning the enforcement action pending Chemetron's response on the spread of contamination outside the facility and on the schedule for characterization and remediation of the Harvard and Bert Avenue sites.

Enforcement discretion is addressed in Paragraph V.G. of the NRC Enforcement Policy which states, "Because the NRC wants to encourage and support licensee initiative for self-identification and correction of problems, NRC may exercise discretion" [emphasis added]. As relevant here, Paragraph V.G.3 of the NRC Enforcement Policy provides that the NRC may refrain from proposing a civil penalty for a Severity Level III violation, as was the case here, only if: (a) It does not involve the release of radioactive material, (b) it was identified by the licensee and reported, (c) comprehensive corrective action is well underway within a reasonable time following identification, and (d) it was not a violation that reasonably should have been corrected prior to the violation because the Licensee had prior notice of the problem involved. In this case: (a) The violation was identified by the Licensee only at the urging of the NRC, (b) comprehensive corrective action was slow and taken only at the insistence of the NRC, and (c) the Licensee had notice of the problem at least six months before the violation was identified, and should have corrected it within that time. Accordingly, enforcement discretion was not warranted.

As for the Licensee's contention that the Staff improperly considered the Licensee's failure to submit its characterization reports and remediation plans in a timely fashion in issuing the Notice, the Staff was merely pointing to the Licensee's general pattern of conduct in responding to problems on time as its chief area of concern. This language was intended to improve the Licensee's future responsiveness to potential problems. The Staff's recitation of its concern in no way implies that enforcement discretion is warranted, as explained above. The Licensee's contention that the NRC abused its discretion is without basis.

IV. NRC Conclusion

The NRC has concluded, based on the information presented by the Licensee and evaluated by the NRC, that the violation occurred as stated in the Notice and that the Licensee has not provided an adequate basis for either reducing the severity level of the violation or for mitigation of the civil penalty. Consequently, the proposed civil penalty in the amount of $7,500 is justified and appropriate and should be imposed.

[FR Doc. 92-1505 Filed 1-21-92; 8:45 am]

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[Docket No. 030-13204-OM, E.A. 91-130 ASLBP No. 92-655-03-OM]

Atomic Safety and Licensing Board Before Administrative Judges: G. Paul Bollwerk, III, Chairman, Dr. Charles N. Kelber, Dr. George F. Tidey, Memorandum and Order (Scheduling Prehearing Conference)

In the Matter of Lafayette Clinic (Order Modifying Byproduct Material License No. 21-00864-02)
January 14, 1992

On October 3, 1991, the NRC staff issued an immediate effective order modifying the 10 CFR part 30 byproduct material license of Lafayette Clinic. See 56 FR 51,415 (1991). One of the license conditions imposed by that order precludes the clinic from utilizing Dr. Natraj Sitaram in any licensed activities for a period of three years. Acting in accordance with 10 CFR 2.205(b), in a letter filed November 25, 1991 (as supplemented by letter filed December 2, 1991), Dr. Sitaram answered the specifications set forth in the staff's order in support of its enforcement action. He also requested a hearing. This Board has been convened to consider Dr. Sitaram's hearing petition. See 56 FR 65,279 (1991).

We previously informed Dr. Sitaram and the staff of our intention to set a prehearing conference during the last week in January 1992 or the first week in February 1992. We now advise petitioner and the staff that a prehearing conference is scheduled for Wednesday, February 5, 1992, beginning at 9:30 a.m. in Courtroom 103 in the Federal Building—United States Courthouse, 231 W. Lafayette Street, Detroit, Michigan. Among other things, this prehearing conference will afford the Board and the litigants an opportunity to:

1. Simplify and clarify the issues;
2. Identify any issues that, in advance of any hearing, may be decided on summary disposition pursuant to 10 CFR 2.749 and establish a schedule for briefing such issues;
3. Discuss the proper allocation of the burden of proof and the burden of going forward with evidence in the context of the staff's specific allegations in support of its order;
4. Set a schedule for any discovery that petitioner or the staff may wish to conduct in accordance with 10 CFR 2.740–.742, 2.744;
5. Set a tentative time and place for a hearing.

If it wishes to do so, the staff may submit a reply to Dr. Sitaram's November 25 answer to its license modification order, which should be filed no later than January 24, 1992. In addition, Dr. Sitaram and the staff are invited to submit proposals outlining specific agenda items for the prehearing conference. Agenda item proposals should be filed no later than January 31, 1992. Petitioner and the staff should provide copies of their agenda item proposals to the Board by facsimile (301-492-7285) or other method that will ensure their submissions are received by the Board by the close of business (4:30 p.m. EST) on January 31.

As background for our consideration of the issues in this proceeding, we request that by January 24, 1992, the staff provide the Board with (1) copies of the April 30, 1991 synopsis of investigation conducted by the NRC Office of Investigations, which is referenced on page one of Dr. Sitaram's November 25 answer/hearing request; and (2) copies of the March 15, 1989 inspection report and the June 11, 1991 enforcement conference report, which are referenced on page one of the staff's October 3, 1991 Notice of Violation and Proposed Imposition of Civil Penalty directed to Lafayette Clinic. Copies of the latter two documents also should be provided to Dr. Sitaram in the event he has not already received them.

It is so Ordered.

Bethesda, Maryland, January 14, 1992
For the Atomic Safety and Licensing Board.

G. Paul Bollwerk, III,

Chairman, Administrative Judge.

[FR Doc. 92-1500 Filed 1-21-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8027, License No. SUB-1010 EA 91-196]

Sequoyah Fuels Corp.; Gore, OK; confirmatory Order Modifying License (Effective Immediately)

I

Sequoyah Fuels Corporation (SFC or Licensee) is the holder of Source Material License No. SUB-1010 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 40. The license authorizes possession and use of source material in the production of uranium hexaflouride (UF6) and depleted uranium tetraflouride (DUF4) in accordance with the terms and conditions of the license. The license was due to expire on September 30, 1990, but currently remains in effect based on a timely renewal application submitted by the Licensee.

II

The Commission issued an Order Modifying License (Effective Immediately) and Demand for Information to SFC (EA 91-067) on October 3, 1991, to address a number of significant safety violations and regulatory problems that occurred at the facility since the August 1990 solvent extraction tank excavation. The Order removed Ms. Carolyn L. Couch, who then held the position of Manager, Environmental, from supervisory and managerial responsibilities over NRC-related activities at the SFC facility for one year and required the Licensee for a two year period to inform the NRC 30 days prior to reassigning her to supervisory or managerial functions for NRC-regulated activities. The Order also requested information as to why the License should not be modified to prohibit Ms. Couch from serving in any capacity involving the performance of NRC-regulated activities at the SFC facility. The purpose of the Demand was to obtain further information from the Licensee in order to determine whether the Commission can have reasonable assurance that (1) in the future the Licensee will conduct its activities in accordance with Commission requirements and (2) certain individual managers identified in Section VIII of EA 91-067 holding key positions described in the License will carry out their responsibilities and authorities. Because it appeared that these key SFC management officials failed to carry out their responsibilities with regard to licensed activities and have not been candid with the NRC, the Demand specifically required the Licensee to provide information to demonstrate why the License should not be modified (1) to probibit Messrs. Mestepey, Lacey, and Simeroth from serving in any capacity involving the performance or supervision of any NRC-regulated activities at the SFC facility, and (2) to require 30 days prior notice to the NRC of reinvolvement of Mr. Nichols by SFC in any capacity in NRC-regulated activities. The Licensee responded to the Order and Demand in two letters, both dated December 2, 1991.

In those responses, the Licensee asserted that, based on the information

available to SFC, SFC believed that the individuals named the Demand neither acted in careless disregard of their respective responsibilities for licensed activities nor failed to be candid with the NRC. However, the Licensee admitted that the individuals made errors in judgement, missed opportunities to identify and correct deficiences at an earlier stage, and could have done more to assure that the NRC was fully informed of SFC activities. While not admitting the allegations in the Order regarding Ms. Couch, SFC stated that Ms. Couch did not wish to continue to be involved in the performance or supervision of NRC-regulated activities at the SFC facility, and SFC, therefore, consented to the Order as to Ms. Couch.

In a letter dated November 15, 1991, the Licensee described management changes that included the reassignment of several of the individuals named in the Order and the Demand to other assignments at SFC or General Atomics, parent company of SFC. By letter dated December 18, 1991, the Licensee stated that, as a matter of clarification, SFC does not intend to use any of the named individuals in the performance or supervision of NRC-licensed activities, or to reemploy Mr. Nichols. The Licensee further stated that should it desire to utilize any of the named individuals in the performace or supervision of NRC-licensed activities, it will provide the NRC notice 30 days prior to such utilization.

iii

In view of the information contained in the December 18, 1991 letter, the NRC finds that it is not necessary at this time to further address the past performance of these individuals. If at a future date the Licensee decides to utilize one or more of these individuals in the performance or supervision of NRC-licensed activities, NRC would then determine if the individual(s) should be performing or supervising licensed activities after considering, among other things, the position in which the individual would be used, changes in circumstances since August 1990, if any, additional training, and the degree of management oversight.

Accordingly, I find that the public health, safety and interest require that License No. SUB-1010 be modified by order to confirm the Licensee's commitment of December 18, 1991 and that pursuant to 10 CFR 2.202 (56 FR 40664, August 15, 1991) this Order be effective immediately. The Licensee consented to this order in a discussion between L. J. Callan, Director, Division of Radiation, Safety, and Safeguards, Region IV, and J. J. Sheppard, President, SFC, on January 8, 1992.

IV

Accordingly, pursuant to sections 62, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commissions regulations in 10 CFR 2.202 and 10 CFR part 40, *it is hereby ordered, effective immediately, that license no. sub-1010 is modified as follows:*

SFC shall provide the NRC at least 30 days notice prior to SFC's reassignment of Ms. Couch or Messrs. Mestepey, Lacey, or Simeroth, to directly perform or supervise NRC-licensed activities, or rehiring Mr. Nichols for the purpose of performing or supervising NRC-licensed activities.

The Regional Administrator, Region IV, may, in writing, relax or rescind the above condition upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, any person other than the licensee adversely affected by this Order may submit an answer to this Order within 20 days of this order. Within the same time period, such persons may request a hearing on this Order. The hearing request may be included in the answer. The answer may consent to the Order. Unless the answer consents to the Order, the answer shall, in writing, under oath or affirmation, specifically admit or deny each allegation or charge made in the Order and shall set forth the matters of fact and law on which such person adversely affected relies, and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 and to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, and to the Licensee. If such person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

VI

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 13th day of January 1992.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 92-1504 Filed 1-21-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30187; File No. S7-2-92]

Joint Industry Plan; Notice of Filing of a Proposed Option Market Linkage Plan by the Chicago Board Options Exchange, and American, New York, and Pacific Stock Exchanges

January 14, 1992.

I. Introduction

On December 4, 1990, pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"), the Chicago Board Options Exchange, Inc. ("CBOE"), American Stock Exchange, Inc. ("Amex"), New York Stock Exchange, Inc. ("NYSE") and Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed Joint Industry Plan ("Plan") providing for the creation and operation of an Options Intermarket Communications Linkage ("Linkage").[1] The filing was amended on April 29, 1991, when the signatories to the Plan submitted the Model Option Trade-Through Rule as Exhibit A to the Plan.[2] As discussed

[1] Although the Philadelphia Stock Exchange, Inc. ("Phlx") participated in the preparation of the Plan, it declined to sign the Plan without a time priority rule. The Phlx stated that, notwithstanding its agreement with many linkage policy issues, it believes that any system implemented by the options exchanges should identify the best intermarket quote by price, time and size priority. Any order, regardless of its origin, would be routed to the identified "best" market for automatic execution. See letter to Richard G. Breeden, Chairman, SEC, for Nicholas A. Giordano, President and Chief Executive Office, Phlx, dated September 26, 1990.

[2] See letter to Jonathan G. Katz, Secretary, SEC, from Edward L. Provost, First Vice President, Operation Planning Group, CBOE, dated April 29, 1991.

below, the Commission is soliciting comment on the Plan.

II. Background

In view of the development of the options markets since 1980 and the recognition that multiple market trading is likely to bring benefits to investors, the Commission determined that restrictions on options multiple trading impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Accordingly, in 1989, the Commission adopted Rule 19c–5, which amended the rules of national securities exchanges governing the listing and trading of standardized options to prohibit (after a specified phase-in period) any exchange from limiting by any means its ability to list any stock option class because that option class is listed on another exchange.[3]

In addressing proposed Rule 19c–5, several exchanges with options programs that opposed the adoption of Rule 19c–5 stressed the harm to public investors that they believed would result from the absence of a centralized market or linked markets for each option.[4] They believed that multiple trading might hinder fair competition between brokers and dealers if member firms automatically were to route options order flow to the exchange with the greatest volume and, consequently, threaten the financial viability of the regional exchanges that depend on revenues from their options trading programs. In addition, they expressed concern that trading options on multiple exchanges that were not linked would produce market fragmentation.[5]

After considering the potential adverse consequences of an expansion of multiple trading under the current market structure, the Commission concluded that the potential benefits to customers that would result from competition among options exchanges would outweigh any potential adverse effects of multiple trading. The Commission concluded that multiple trading would result in improved market and service quality for customers. Furthermore, in reviewing multiple trading in options on over-the-counter stocks, the Commission found that market fragmentation problems have been minimal and little evidence exists that full-scale multiple trading would significantly increase these problems.[6]

Although the Commission was willing to approve multiple trading under the current market structure, it endorsed a thorough review of the benefits and costs entailed in developing market integration facilities. Accordingly, the Commission published for comment a staff White Paper, which discussed a number of potential market integration facilities that could be built to address market fragmentation concerns and requested comment on whether any of the facilities should be implemented.[7] The Commission received nine comment letters [8] and two studies in response to its notice.[9]

Several weeks before the phase-in of multiple trading was to begin, the Commission asked each of the five options exchanges to voluntarily commit to: (1) Work with each of the other exchanges to develop a joint plan for a market linkage facility and (2) refrain from listing any options that were traded on another options exchange before January 22, 1990, as permitted under paragraph (a)(2) of Rule 19c–5 under the Act on or before June 30, 1990 ("voluntary moratorium").[10] The voluntary moratorium was intended to provide the exchanges additional time to reach an agreement on linkage facility to accommodate options multiple trading. In June, 1990, the exchanges submitted two proposals for the development of a linkage and formed several committees to consider the proposals and discuss the actual implementation of the linkage system.[11] In light of the progress achieved in the development of the Linkage, the Commission has extended, most recently until June 30, 1992, its request to each exchange to refrain voluntarily from listing any options that were traded on another exchange before January 22, 1990. The extended voluntary moratorium would provide time for public comment on the Plan and for the Commission to consider the submission.[12]

III. Description of the Plan and Model Trade-Through Rule

A. The Plan

The Plan provides for the creation and operation of an Options Intermarket Communications Linkage between the signatories to the Plan, and the creation of a standardized intermarket Option Trade-Through Rule. The purpose of the Plan is to enable the participants to act jointly in planning, developing, operating and regulating the Linkage. The Plan contemplates that participating exchanges also will file with the Commission as proposed rule changes for review under Section 19(b) of the Act any rules or rules changes that may be necessary to incorporate the

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[3] 17 CFR 240.19c–5. Securities Exchange Act Release No. 26870 (May 26, 1989), 54 FR 23963 ("Rule 19c–5 Adoption Release").

As of January 22, 1990: (1) An options exchange may list up to 10 standardized stock option classes overlying exchange-listed stocks that were also listed on another options exchange before January 22, 1990 and (2) any new options class first listed on any exchange as of January 22, 1990, can be multiply traded. Finally, as of January 21, 1991, no options exchange may limit its ability to list any stock options class because that class is listed on another exchange. In January 1990, Chairman Breeden requested the exchanges to refrain voluntarily from listing any options that were traded on another exchange before January 22, 1990. See note 10, infra and accompanying text.

[4] The CBOE, PSE, and Phlx opposed an expansion of multiple trading, while Amex and the National Association of Securities Dealers generally supported the adoption of Rule 19c–5. The NYSE did not theoretically oppose multiple trading on exchange-listed stocks but believed that the Commission should postpone action on multiple-trading until the events of October 1987 could be more fully analyzed.

[5] They argued that the dispersion of options order flow for a particular option class across several exchanges would cause each market to be less deep and liquid than would otherwise be the case if the option were traded on only one exchange, thus negatively affecting the prices at which customers can trade and the market making ability of floor traders.

[6] See Rule 19c–5 Adoption Release, supra note 2, at note 117 and accompanying text.

[7] See Securities Exchange Act Release No. 26871 (May 26, 1989), 54 FR 24058 ("White Paper"). Specifically, the Division of Market Regulation requested comment on three measures that might be employed to reduce fragmentation and increase competitive opportunities for the options markets. The presented alternatives were an ITS-like intermarket linkage to allow orders to be sent among markets; a mechanism to route small customer orders, on an order-by-order basis, to the "best" market; and a central limit order exposure system, an electronic facility for collecting, displaying and providing automatic execution of limit orders in multiply traded options.

[8] See letters to Jonathan G. Katz, Secretary, SEC, from John C. Katovich, Vice President and General Counsel, PSE, dated September 15, 1989; Alger B. Chapman, Chairman and Chief Executive Officer, CBOE, dated September 15, 1989; Clayton A. Struve, General Partner, O'Connor & Associates, dated September 15, 1989; Nicholas A. Giordano, President, Phlx, dated September 21, 1989; Kenneth R. Leibler, President and Chief Operating Officer, Amex, dated September 21, 1989; James E. Buck, Senior Vice President and Secretary, NYSE, dated September 25, 1989; Raymond Skelton, Chairman, SIA, dated October 11, 1989; Thomas A. Petrone, Managing Director, Smith Barney, dated November 3, 1989; and Michael Schwartz, Chairman, Oppenheimer & Co., dated November 8, 1989.

[9] See Options Intermarket Linkage System Feasibility and Conceptual Design, presented to the NYSE, PSE and Phlx, by the Tellefsen Consulting Group, Inc., (September, 1989); and Option Market Integration: An Evaluation, presented to the Amex and CBOE, by Yakov Amihud and Haim Mendelson, (January, 1990).

[10] See letter to the exchanges from Chairman Breeden, dated January 9, 1990.

[11] One of the plans was the precursor to the present submission; the other was a plan favored by the Phlx that differs most significantly from the current proposal by requiring that customer orders be routed to the exchange displaying the best bid or offer, calculated on the basis of price, time and size priority. See note 9, *supra*.

[12] See letter to the exchanges from Chairman Richard C. Breeden, dated December 30, 1991.

requirements of the Plan into the rules of each participant exchange.

The following is a summary of the major provisions of the Plan. The full text of the Plan is contained in the original filing, which is available for inspection and copying in the Commission's Public Reference Room and at the participating exchanges.

The Linkage is designed to accommodate trading in any eligible option series.[13] While the generation and management of quotation information is not part of the Linkage, the Plan presupposes that each member in each participant Market has access to the best bid and the best offer, for each series that it is permitted to transmit through the Linkage, from among the bids and offers then being furnished to the participant Market in which the member is located by or on behalf of each other participant. Each participant must make available on its trading floor the best bid and the best offer, for each eligible series that it trades, from among the bids and offers then being furnished to that participant.

As to each eligible series that is traded on its floor, each participant would be required to furnish, or cause to be furnished, to the Options Price Reporting Authority ("OPRA") the current bid-asked quotation emanating from its trading floor. Each quotation so furnished shall be considered "firm" to the extent provided in the Plan.

The Linkage is intended to provide mechanisms for routing customer and proprietary orders to the market displaying the best bid or offer. Those mechanisms vary, however, as between customer and proprietary orders. In addition, the Plan provides specific additional procedures for customer orders for greater than ten contracts. The specific Plan provisions that govern the handling of these types of orders are illustrated below.

(1) Customer Commitments of 10 Contracts or Fewer

When a member firm of a participant Market ("Originating Market") receives from a customer an order to purchase 10 contracts of a given option class that is also traded on other participant Markets ("Receiving Market") it may send that order to the Originating Market floor for execution. The member will go to the post where the option is traded at the Originating Market and inquire as to the market for that option. The broker may discover, however, that the best bid for the option from another participant Market is a bid of 4¼ and the best offer from another participant Market is on of 4⅜. With this information, the broker may decide to attempt to buy the 10 contracts for this customer from the 4⅜ offer. By using a Linkage station located on the Originating Market trading floor, the broker may send, or cause to be sent, to the Receiving Market a "commitment to trade" (in this case a commitment to buy 10 contract of the option at 4⅜). When more than one other participant is displaying a bid or offer equal to the highest bid or lowest offer, the broker may choose from among those bids and offers and direct the commitment to that participant. This commitment is firm and irrevocable. As specified in section 6(b)(iv)(A) of the Plan, if the 4⅜ offer on the Receiving Market is disseminated when the commitment to buy at 4⅜ is received at the Receiving Market, or if a better offer is then available, the Receiving Market must accept the commitment within the required time period and execute the order at 4⅜ (or at the better price). The Receiving Market will then report the trade to OPRA for dissemination under the OPRA Plan at 4⅜ (or at the better price), with the trade identified as executed on the receiving Market, and report the execution to the Originating Market through the Linkage within the prescribed time period. Should the bid or offer sought by a customer commitment no longer be disseminated by the Receiving Market when the customer commitment is received, the Receiving Market shall report that information to the Originating Market within one minute of the receipt of the customer commitment.

The Plan allows, but does not require, a participant Market to use its exchange systems to automate the processes of sending a customer commitment to trade through the Linkage and executing a customer commitment received through the Linkage. If the option in the previous example were also a series eligible for automatic execution in the Originating Markets' automatic execution systems may electronically read the markets being disseminated by the other participants. When no member of the Originating Market, having been provided the opportunity to improve on the 2½ offer, offers to sell the 10 option contracts of 4⅜, the Originating Market will send to the Receiving Market a commitment to buy 10 contracts at 4⅜. When more than one particpant is disseminating a bid or offer equal to the best bid or offer and the Origination Market provides automated rerouting of orders, the Originating Market will provide to its members the choice of destination market based upon price/time priority or price/random priority from among those participants then displaying the best bid or offer.

(2) Customer Commitments on Behalf of Orders Larger Than 10 Contracts

When a broker represents a customer order for larger than 10 contracts, the broker, after establishing that a higher bid or lower offer is disseminated by another participant, would initiate the routing of a customer commitment to trade in one of three ways. First, the Broker may choose to enter the larger than 10 contract sell (buy) order into the Linkage as a single commitment without prior verification of the size of the higher bid (lower offer). In that case, if the higher bid (lower offer) is disseminated when the larger than 10 contract sell (buy) commitment is received in the Receiving Market, that market must execute the commitment for at least a minimum of 10 contracts at the disseminated bid (offer).[14] Alternatively, the broker may choose to verify the size of the higher bid (lower offer) before sending the larger than 10 contract sell (buy) commitment through the Linkage. The broker may receive verification from the Receiving Market that the higher bid (lower offer) is firm for larger than 10 contracts. The broker would then immediately rout through the Linkage a commitment to sell (buy) for the verified size to the Receiving Market where the size bid (offer exists. If the bid is disseminated in the Receiving Market at the time the commitment is received in that market, the commitment will be executed at the disseminated bid for the verified size and reported to OPRA and to the Originating Market. Finally, the broker may choose to send the larger than 10 contract sell (buy) order through the Linkage to a single

[13] The procedure for determining the particular series that may be transmitted through the Linkage at any time shall be established by unanimous vote of the Administration Committee with all the participants voting.

[14] Section 6(b)(iv)(A) of the Plan provides that if the bid or offer that is sought by a customer commitment to trade was disseminated at the time the customer commitment was received, the customer commitment shall be accepted for up to 10 contracts. In the event that the bid or offer is no longer available in the Receiving Market but a new bid or offer is available in that market that would enable the customer commitment to be executed at a price that, from the standpoint of the sender of the customer commitment, is at least as favorable as the price specified in the customer commitment, then, under the rules of the Receiving Market, the member who make the new bid or offer shall accept the customer commitment at the price of such new bid or offer for up to 10 contracts. Should the bid or offer sought by a customer commitment no longer be disseminated by the Receiving Market when the customer commitment is received, the Receiving Market shall report that information to the Originating Market within one minute of the receipt of the customer commitment.

participant, without verifying the size, by sending the order in 10 contract (or fewer) increments. The broker would enter the order into the Linkage and direct that the order be routed as separate commitments, each of which is no larger than 10 contracts. If the Receiving Market is disseminating a bid (offer) equal to or superior to the reference price on the 10 contract or fewer commitments at the time such commitments are received, each commitment will be executed in accordance with section 6(b)(iv)(A).[15]

(3) Broker-Dealer Commitments

A specialist/market maker registered in a particular option class in which there are series eligible for routing through the Linkage or a floor broker on behalf of an account in which a broker-dealer has an interest may access the Linkage. The method of accessing the Linkage does not differ based upon the size of the commitment to trade. The Originating Market must assure, however, that the information contained on the commitment is complete and that a pre-notification message is sent to the Receiving Market indicating the Eligible Series that is the subject of the broker-dealer's commitment.[16]

Section 6(b)(iv)(B) of the Plan provides that members in a participant Market are not obligated to satisfy commitments entered through the Linkage for the account of a broker-dealer, except that if a customer offer (bid) is disseminated by the Receiving Market and the broker-dealer commitment to buy (sell) is received prior to that customer offer (bid) being executed, the rules of the participant Market shall require that the broker-dealer commitment be executed against the customer offer (bid). When a broker-dealer's commitment is not executed, the Receiving Market shall immediately adjust its disseminated quotation to reflect that the bid or offer sought by the broker-dealer's commitment is no longer available.

B. Model Trade-Through Rule

In addition to prescribing how and under what circumstances commitments are routed through the Linkage, the Plan also contains a Model Trade-Through Rule that each participant Market will incorporate into its own rules. The Model Rule provides that, absent reasonable justification or excuse, a member in a participant Market should avoid initiating a trade-through when purchasing or selling an option contract permitted to be transmitted through the Linkage. A trade/through occurs whenever a member of an exchange initiates the purchase of an option series eligible for routing through the Linkage at a higher price than the price then being offered (or initiates the sale of the option at a lower price than the option is being bid for) in another participating market as reflected by the offer (bid) then being disseminated in accordance with the Plan.

The trade-through rules adopted by the participants would apply to transactions that are, or are a part of, a block trade.[17] The block trade provisions of the trade-through rule shall require any member who executes a block trade in any eligible series at a clean-up price inferior to the quotation for such eligible series then being furnished from any other participant Market furnishing a bid or offer (as the case may be) superior to the clean-up price to send a commitment to trade at the clean-up price to satisfy such other participant Market's bid or offer to the extent provided by the rule.

The Model Rule provides that if a trade-through occurs and the participant Market receives a complaint from the party whose bid or offer was traded-through ("Aggrieved Party"), then the member who initiated the trade-through ("Initiating Member") must: (1) Satisfy the bids or offers traded-through for up to the number of contracts involved in the trade that caused the trade-through at the price of the transaction that caused the trade-through; or (2) the Initiating Member, with the consent of the *contra* party, must adjust the price of the trade to a price that would not have caused the trade-through; or (3) the Initiating Member must cancel the trade as being null and void, if both the Initiating Member and the *contra* party were trading for their own account. Each customer order, the execution of which caused the trade-through, shall receive: (1) The price that caused the trade-through; (2) the satisfaction price, if the trade-through is to be satisfied; or (3) the adjustment price, whichever of the three alternatives is of greatest benefit to the customer. Any resulting differences in price shall be the liability of the member who initiated the trade-through.

If the Initiating Member does not take the appropriate corrective action or, if applicable, promptly notify the Aggrieved Party that the Initiating Member is relying on an exception from the trade-through Rule, the Initiating Member shall be liable to the Aggrieved Party for the amount of the Aggrieved Party's actual loss or the loss calculated based on the loss basis price, whichever is greater. The loss basis price generally is the highest bid (in the case of an offer that was traded-through) or lowest offer (in the case of a bid that was traded-through) after six minutes from the OPRA report of the transaction.

These obligations will not apply if: (1) The trade-through was unavoidable because of a systems or equipment failure or malfunction; (2) the market that was traded through had declared a fast situation and, thus, the quotes the market was disseminating were not firm; (3) the Aggrieved Party failed to complain promptly after the trade report for the trade that caused the trade-through was disseminated by OPRA; or (4) in the case of a third participating market center trade-through, the Initiating Member promptly sent a commitment to trade to the Aggrieved Party to satisfy the trade-through and had preceded the commitment to trade with an administrative message informing the Aggrieved Party that the commitment was in satisfaction of the trade-through.

C. Implementation of the Plan

The participants stated that the Plan will be implemented upon the Commission's approval of the Plan and related rules and the participants' completion of the development of the systems necessary to effectuate the Linkage described in the Plan. Among the systems to be developed are systems that will allow for the calculation of the best bid and best offer from among those participants trading an eligible series; provide for the transmittal of "commitments to trade" and "administrative messages" between participants and response thereto; and provide for the clearing and settlement of trades that take place as a result of commitments to trade routed through the Linkage. Each of the participants is represented on a "Joint Participant Technical Committee," which has made

[15] When a broker chooses the third alternative, each participant Market shall assure that the 10 contract or fewer commitments that are part of a greater than 10 contract customer order are not sent through the Linkage within 10 seconds of each other or such other minimum time period as determined by the Administration Committee.

[16] The message must be received no less than six seconds and no more than 10 seconds before the broker-dealer's commitment.

[17] A "block trade," as that term is used in the Plan, means a trade on the exchange that: (a) Involves 100 or more contracts ("block size"); (b) is effected at a price outside the bid or offer disseminated from another participating market center and available for display on the exchange; and (c) involves either (i) a cross of block size (where the member represents all of one side of the transaction and all or a portion of the other side), or (ii) any other transaction of block size (i.e., in which the member represents an order of block size on one side of the transaction only) that is not the result of an execution at the current bid or offer on the exchange.

progress toward developing a requirements specification and technical design document that will be filed with the Commission upon completion. The linkage shall be operable at anytime two or more participants are open for trading in an eligible series.

D. Development and Implementation Phases

The Technical Committee will prepare the requirement specification and technical design document described above. Upon approval of this document by the participants, a working schedule will be prepared by the Committee. Assuming prompt approval of the Plan and the technical design document, and no major changes in the requirements, it is estimated that the Linkage can be operational within 24 months of the date of the completion of the Plan filing.

E. Analysis of Impact on Competition

The Plan provides for the creation of an Option Market Linkage and rules providing inter-market trade-through protection. In adopting Rule 19c–5, the Commission found that multiple trading of standardized options on exchange-listed securities is consistent with the purposes of the Act. In particular, the Commission found that permitting the options exchanges to compete in a multiple trading environment will bring substantial benefits to investors, in the form of improved prices and better services.

F. Description of Operation of Facility Contemplated by the Plan

Each participant will undertake efforts to modify its internal quotation display, order routing, order handling and execution systems so as to ensure that orders are handled in accordance with the Plan. The participants will interface through a telecommunications network. All order handling, processing, logging, switching and matching will be undertaken by the participants using existing and/or modified in-house systems.

G. Terms and Conditions of Access

Any national securities exchange in whose market eligible series become traded that agrees to abide by section 3 of the Plan may become a participant. Section 3 of the Plan provides that any other national securities exchange or association may subscribe to the Plan and become a participant by agreeing, in an amendment to the Plan, to comply and enforce compliance with the provisions of the Plan.

H. Method of Determination of Imposition, and Amount of Fees and Charges

The Plan does not provide for the imposition of any fees or charges in connection with the use of the Linkage. Section 10 of the Plan provides that the participants will share costs associated with any shared telephone lines that connect the participants with each other in accordance with a cost-sharing formula to be developed by the participants.

I. Method and Frequency of Processor Evaluation

The Linkage's architecture does not call for an independent processor. The Plan calls for the creation of an Administration Committee which has authority to: (i) Oversee development of the linkage in accordance with the specifications agreed upon by each participant; (ii) monitor the participant's use of the linkage; and (iii) advise the participants with respect to any deficiencies, problems or recommendations as the Committee may deem appropriate in its administration of the Plan. One of the Administration Committee's responsibilities, however, will be to oversee the telecommunication network.

J. Dispute Resolution

Section 4 of the Plan provides for the specialized mechanism for the resolution of disputes arising under the Plan.[18] The section provides for a procedure by which a participant may request an interpretative opinion of a ruling made by another participant on the application of the Plan or the Model Trade-Through Rule. The dispute must pertain to a situation involving a minimum loss of $5,000, which must have been established pursuant to the Plan and Model Rules, including their applicable mitigation procedures. All routine self-regulatory organization surveillance reviews respecting the initial ruling must be completed prior to such request. Opinions will be submitted to the Administration Committee for its information and review.

K. Written Understandings or Agreements Relating to Interpretation of, or Participation in the Plan

Not Applicable.

IV. Solicitation of Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office the Participating exchanges. All submissions should refer to File No. S7–2–92 and should be submitted by February 12, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[18] The proposed dispute resolution process is essentially the same process adopted by the Intermarket Trading System Operating Committee and approved by the Commission. See Securities Exchange Act Release No. 29194 (May 15, 1991), 56 FR 23318.

[Release No. 34-30186; File No. SR-CBOE-91-39]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Offers of Settlement and Scheduling of Hearings

January 14, 1992.

On October 25, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the procedures provided in Exchange Rule 17.8 for offers of settlements and the scheduling of hearings. Specifically, the CBOE proposed (i) to limit to 120 the number of days in which a respondent in a CBOE disciplinary proceeding may submit settlement offers after a statement of charge has been served; (ii) to limit the number of settlement offers within that 120-day period to two; (iii) to provide that a hearing will be scheduled following the end of the 120-day period, or earlier, if the Business Conduct Committee ("BCC") has rejected the respondent's second settlement offer; and (iv) to provide that respondents must request access to documents in writing within 60 days after being served a statement of charges.

The proposal was published for comment in Securities Exchange Act Release No. 29959 (November 19, 1991), 56 FR 60135. No comments were received on the proposed rule change.

Currently, the Exchange's rules do not limit the number of settlement offers a respondent may submit, nor do they establish specific time limits in which a disciplinary hearing must be held. During a recent inspection of the Exchange, the Commission found that the CBOE's disciplinary procedures have afforded respondents the opportunity to protract unreasonably the resolution of formal disciplinary matters through requests for dismissal of charges and unrealistic offers of settlement. Accordingly, in response to Commission's findings, the CBOE submitted the current proposal. As mentioned earlier, the amendments provide that a respondent will have 120 calendar days from the date of service of a statement of charges in which to present settlement offers. During that time, a respondent will be allowed to submit only two settlement offers, although the BCC, at its discretion, may permit a respondent to submit an additional settlement offer if the pertinent details of the respondent's offer are consistent with the parameters and criteria deemed acceptable by the BCC. In order to reinforce these limitations, the CBOE's proposal also requires the BCC to schedule a hearing date at the end of the 120-day period, or earlier, if the BCC has rejected a respondent's second settlement offer. In addition, the proposal amends CBOE Rule 17.4(c) to require a respondent to make a written request for access to documents within 60 calendar days after being served a statement of charges.[3]

The commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(7).[4] Specifically, the Commission believes the CBOE's proposal strikes a reasonable balance between the Exchange's need to provide prompt, effective, and meaningful discipline for violations of Exchange rules and the Federal securities laws and the need to ensure a fair procedure for the respondents to contest CBOE disciplinary proceedings. In particular, the Commission believes 120 days is sufficient time for respondents to make offers of settlement once a statement of charges has been served. This period will provide adequate time for respondents and their counsel to review the charges, request and collect documents, and then determine whether to contest the charges or attempt of settle them. Similarly, it is reasonable for the CBOE to limit to two the number of settlement offers that respondents are entitled to submit. The CBOE is not obligated to accept *any* settlement offers, so it is well within its rights to limit settlement offers it will consider to two offers. Moreover, the Commission also notes that respondents are not necessarily limited to two offers of settlement under the proposal. The BCC, in its discretion, may permit a respondent to submit more than two offers within the 120-day period.

The Commission believes 60 days is a sufficient amount of time to provide respondents to request access to documents. The 60-day time period does not restrict respondents' access to documents in any way and it serves to prevent respondents from circumventing the requirement that offers of settlement be submitted within 120 days by prohibiting document requests on the 119th day. Moreover, the Commission notes that the 120-day period in which to submit offers does not include those days in excess of seven that it takes the CBOE to provide respondents access to documents.

Accordingly, the Commission believes that the proposal will continue to safeguard the procedural rights of respondents to request documents and to make settlement offers, while at the same time streamlining the Exchange's disciplinary process by providing for the prompt scheduling of disciplinary hearings. By minimizing opportunities for delay, and thereby helping to preserve evidence, memories, and the availability of witnesses, the Commission believes the proposal will enhance the quality, consistency, and fairness of the Exchange's disciplinary proceedings and will enable the CBOE to better enforce compliance by its members with the Exchange's rules and the Federal securities laws. Therefore, the Commission believes that the CBOE's proposal is consistent with section 6(b)(7) of the Act because it provides a fair procedure for disciplining members.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR-CBOE-91-39) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1990).

[3] The proposal also provides that the 120-day period does not include the number of calendar days in excess of seven in which it takes CBOE staff to provide access to documents after a request for documents is made pursuant to CBOE Rule 17.4(c).

[4] 15 U.S.C. 78f (1988).

[5] 15 U.S.C. 78s(b)(2) (1988).

[6] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-30188; File No. SR-CSE-91-4]

Self-Regulatory Organizations; the Cincinnati Stock Exchange; Order Granting Partial Approval to Proposed Rule Change Relating to Public Agency Order Size Guarantees

January 14, 1992.

On August 28, 1991, the Cincinnati Stock Exchange ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the Exchange's guarantee for public agency orders contained in CSE Rule 11.9, which governs the Exchange's National Securities Trading System.[3] The CSE also proposes to modify its existing guidelines for market making spreads. This order grants approval only to the proposal to amend the Exchange's public agency order guarantee.

The proposed rule change was published for comment in Securities Exchange Act Release No. 29843 (October 21, 1991), 56 FR 55702 (October 29, 1991). No comments were received regarding the proposed rule change.

Currently, Exchange Rule 11.9(n), the CSE's public agency order guarantee rule, requires Designated Dealers ("DDs") [4] to accept and guarantee the execution of public agency market and marketable limit orders up to 2,099 shares entered after the opening in their designated issues. Under this Rule, the DD is obligated to fill these orders on the basis of the best Intermarket Trading System ("ITS") bid (for sell orders) or offer (for buy orders),[5] regardless of the size of the bid or offer in the primary market and regardless of the identity of the customer, as long as the customer is not a broker-dealer. The CSE proposes to amend its public agency order guarantee to require DDs to fill public agency market and marketable limit orders entered after the opening in their designated issues up to the size of either: The ITS best bid or offer (on sell and buy orders, respectively) or 2,099 shares, whichever size is lower. In addition, under the CSE proposal, DDs would no longer be required to guarantee any portion of an order larger than 2,099 shares.

In its rule filing, the CSE states that its proposal is designed to balance the Exchange's interest in attracting order flow with the need to ensure that only those orders which are "retail" in the traditional sense of the word receive a guaranteed execution. The Exchange states that this amendment to its public agency order guarantee rule is necessary to address two concerns. First, the Exchange believes that the DD's current obligations under Exchange rules, which may, in certain instances, provide guarantees that are better than the ITS BBO, results in an undue burden for CSE DDs. In addition, the Exchange believes that the potential exists for abuse of the intent of the guarantee by institutional or other substantial traders who, though not broker-dealers, are not "retail" in the conventional sense, as evidenced by the size and timing of their orders.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 of the Act.[6] Specifically, the Commission believes that the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

Under the Exchange's proposed amendment to its public agency order guarantee rule, CSE DDs would not be obligated to fill certain orders that they may be obligated to fill under the existing rule. Currently, DDs must guarantee the execution of up to 2,099 shares of public agency market and marketable limit orders at the ITS BBO regardless of the size of the ITS BBO. For example, if the size of the ITS BBO was 1,000 shares, the DD would still be required to guarantee the execution of orders up to 2,099 shares. In addition, for orders greater than 2,099 shares, the DD currently is required to guarantee the execution of 2,099 shares of that order. Under the CSE proposal, DDs would be required to fill public agency market and marketable limit orders up to the size of the lesser of either the size of the ITS BBO or 2,099 shares. Therefore, in the example above in which the size of the ITS BBO was 1,000 shares, the DD would be required to guarantee the execution of 1,000 shares. Further, under the new rule, the DD would not be obligated to fill any portion of an order over 2,099 shares.

Although implementation of the new order guarantee rule may result in a DD not being required to fill orders that he or she may have been required to fill under the prior rule, the Commission believes nonetheless that the CSE proposal is reasonable and should ensure that public customer orders are guaranteed up to the size of the national best bid or offer. As stated in the filing, the CSE's existing public agency order guarantee rule may result in guarantees by its DDs that are better than the size of the national best bid or offer or guarantees for larger orders by substantial traders that are not truly "retail" orders. The Commission believes that relieving a regional market maker from an obligation to guarantee a size greater than the best prevailing national size should not be harmful to investors because customer orders would continue to be guaranteed up to the size of the ITS best bid or offer or 2,099 shares (whichever amount is lower). Therefore, customers would continue to be guaranteed either a stated number of shares or the best prevailing size in the market.

In addition, the CSE's amendment to its order guarantee rule should bring the obligations of CSE DDs more in line with the obligations of regional stock exchange specialists. For example, the current agency order guarantee rule of the Midwest Stock Exchange ("MSE") is substantially similar to the CSE's new rule.[7] Furthermore, the Commission

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The National Securities Trading System is an electronic securities communication and execution facility through which bids and offers of competing dealers and public orders are consolidated for review and execution by Exchange members or approved dealers. See CSE Rule 11.9(a).

[4] A DD is an Exchange proprietary member who maintains a minimum net capital of at least the greater of $100,000 or the amount required under Rule 15c3-1 of the Act [17 CFR 240.15c3-1 (1991)], and who has been approved by the Exchange's Securities Committee to perform market making functions by entering bids and offers for securities designated by the Securities Committee to be traded in the CSE's National Securities Trading System ("designated issues") into that System. See CSE Rule 11.9(a)(3).

[5] For purposes of CSE Rule 11.9, the term "ITS BBO" means the best bid/ask quote among the ITS participants in those issues that are traded on ITS. See CSE Rule 11.9(a)(11).

[6] 15 U.S.C. 78f (1988).

[7] For example, MSE specialists are required to accept and guarantee execution on all agency orders other than limit orders in NASDAQ/NMS securities from 100 up to and including 2,099 shares in accordance with MSE Rule 37, which provides that the MSE specialist is obligated to execute agency limit orders on a share for share basis with trades executed at the limit price in the primary market if volume prints in the primary market at the bid or offer limit price. See MSE Rule 37.

believes that the portion of the proposed rule change that relieves DDs from any requirement to guarantee any portion of an order larger than 2,099 shares is consistent with the CSE's stated objective of not requiring DDs to guarantee large orders that are not retail in the conventional sense. As discussed above, the guarantee still allows for protection of orders up to the size of the ITS BBO, which is generally the prevailing customer order size in the marketplace.

Finally, the Commission emphasizes that, because the CSE proposal is limited to amending the Exchange's size guarantees, the Exchange's best execution rules would not be affected. Investors would still be guaranteed the best price execution of their orders. For these reasons, the Commission believes that the portion of the proposed rule change relating to the CSE's public agency order guarantee is consistent with the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the portion of the proposed rule change relating to amending the CSE's public agency order guarantee is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-1518 Filed 1-21-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18487; 812-7739]

Cortland Trust, Inc., et al.; Application

January 15, 1992.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Cortland Trust, Inc. (the "Trust"), Reich & Tang L.P. ("Reich & Tang"), and Reich & Tang Distributors L.P. (the "Distributor").

RELEVANT ACT SECTIONS: Applicants seek an order under section 11(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order of the SEC under section 11(a) of the Act approving offers of exchange between certain money market investment companies, and portfolios and classes thereof, currently existing or established in the future, for which Reich & Tang or its affiliates serve as investment adviser, and for which the Distributor or its affiliates serve as distributor, sponsor or underwriter (individually, a "Money Market Fund" and collectively, the "Money Market Funds") and certain non-money market funds outside the Money Market Funds' group of investment companies (the "Participating Funds") on a basis other than the relative net asset value of the securities to be exchanged.

FILING DATES: The application was filed on June 18, 1991 and amended on November 26, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 10, 1992, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: Cortland Trust, Inc., Three University Plaza, Hackensack, New Jersey 07601; Reich & Tang L.P. and Reich & Tang Distributors L.P., 100 Park Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Osterman, Staff Attorney, at (202) 504-2525 or Max Berueffy, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is registered under the Act as an open-end management investment company. The Trust is a series investment company that currently offers investors three types of money market portfolios.[1] The requested order would extend to the Trust, all portfolios and series thereof, and all other Money Market Funds, as defined above.

2. Reich & Tang, a registered investment adviser, serves as investment adviser to the Trust's portfolios. The Distributor, a registered broker-dealer, serves as distributor of the shares of the Trust's portfolios.

3. The Participating Funds are non-money market funds, currently existing or established in the future, that are members of an investment company group that either does not include taxable and tax-exempt money market portfolios,[2] or includes money market portfolios that, because of their size or lower returns, would not serve their investors' needs as well as would the Money Market Funds. Some of the Participating Funds may be sold with a sales load.

4. In all exchange programs created pursuant to the terms and conditions set forth in the application, the Money Market Funds and the Participating Funds will share the same transfer agent.

5. If the requested order is granted, shareholders of a Participating Fund could exchange their shares for shares of a Money Market Fund, and thereafter exchange such Money Market Fund shares for shares of that Participating Fund or, to the extent permitted by Applicants and the principal underwriter of such Participating Fund, for shares of another Participating Fund that is part of the same "group of investment companies" as such Participating Fund. A Money Market Fund shareholder seeking to exchange his or her shares would have to establish an account with a Participating Fund, or be formally acknowledged as a potential investor in a Participating Fund.[3] Applicants' share exchange

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[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30-3(a)(12) (1991).

[1] The Trust offers the Cortland General Money Market Fund, the U.S. Government Fund, and the Municipal Fund. The Cortland General Money Market Fund is a portfolio of securities and instruments issued or guaranteed by the United States Government, its agencies or instrumentalities, bank instruments, and corporate commercial instruments. The U.S. Government Fund is a portfolio of securities and instruments issued or backed by the full faith and credit of the United States Government and repurchase agreements collateralized by United States Government obligations. The Municipal Money Market Fund is a portfolio of obligations issued by states, territories, and possessions of the United States, and their political subdivisions, public authorities and other entities authorized to issue debt, the interest on which is exempt from federal income taxes.

[2] It is also possible that the program would be used in other circumstances (for example, where such group has a taxable portfolio but not a tax-exempt portfolio).

[3] In some cases, it may be desirable for an investor to establish an account with a Money Market Fund pending selection of a particular fund within a Participating Fund group or pending a decision as to the appropriate time of investment. In these cases, the fact that the investor in the Money Market Fund is a potential investor in the Participating Fund group would be noted on the

Continued

program would not permit shares of one Participating Fund to be exchanged directly for shares of another Participating Fund, nor would the program allow a shareholder of one Participating Fund group to acquire shares of a Participating Fund in a different group.

6. The same entity would be utilized for effectuating the exchange of shares of both the Money Market Fund and the Participating Fund and would hold the records for individual shareholders in any given exchange transaction between a Money Market Fund and a Participating Fund. The entity conducting the share exchange would be the transfer agent ordinarily used by the Participating Fund involved in the exchange and would serve as the recordkeeping agent for the shares of the Money Market Fund involved in the exchange. In its transfer agency or other recordkeeping capacity, the transfer agent would be responsible for various tasks, including accepting and recording the payment of sales loads, administrative fees, and redemption fees. Share exchanges would be conducted in accordance with rule 11a–3 of the Act, except that the Money Market Funds and the Participating Funds would not be in the same "group of investment companies."

7. Any sales load payable in connection with Applicants' share exchange would be payable to the underwriter for the Participating Fund involved in the exchange, which may reallow some or all of the sales load to a selling broker-dealer (*i.e.*, a broker-dealer that is entitled to a portion of the sales load from the underwriter as a dealer's reallowance). Applicants also may impose an administrative and/or redemption fee, as permitted under rule 11a–3. The only compensation that would be payable directly by an exchanging shareholder to a transfer agent in connection with a share exchange would be an administrative fee or other charges that are permissible under rule 11a–3.[4] The Distributor would receive no fee or other compensation in connection with a share exchange.

Legal Analysis

1. Section 11(a) of the Act provides, among other things, that "[i]t shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is make." Applicants' offer of exchange requires Commission approval under section 11(a) because the imposition of sales loads and other fees will result in the share exchanges not being made at relative net asset value.

2. Rule 11a–3 under the Act provides that, notwithstanding section 11(a), a registered open-end investment company or its principal underwriter making an exchange offer may cause a securityholder to be charged a sales load on the security acquired in the exchange, a redemption fee, an administrative fee, or any combination of the foregoing, provided certain conditions are met. One of these conditions is that the exchange offer must be made only to security holders in investment companies that are within a single "group of investment companies." Rule 11a–3 defines "group of investment companies" as "any two or more registered open-end investment companies that hold themselves out to investors as related companies for the purposes of investment and investor services, and (i) that have a common investment adviser or principal underwriter, or (ii) the investment adviser or principal underwriter of one of the companies is an affiliated person as defined in section 2(a)(3) of the Act [15 U.S.C. 80a–2(3)] of the investment adviser or principal underwriter of each of the other companies." Applicants cannot rely on rule 11a–3 because the Money Market Funds and the Participating Funds are not part of the same "group of investment companies."

3. Applicants' share exchange program will satisfy all of the conditions set forth in rule 11a–3, except that the Participating Funds and the Money Market Funds will not be in the same "group of investment companies." Applicants assert that the proposed share exchange program would be operationally and administratively convenient because the entity conducting an exchange would be the transfer agent ordinarily used by the Participating Funds involved in the exchange and would serve as the recordkeeping agent for the shares of the Money Market Fund involved in the exchange. Thus, even though members of different "groups of investment companies" would be involved in a share exchange, Applicants assert that the transfer agent would be logically positioned to implement the program because a single entity would possess the information and maintain the records that are required to execute both the redemption and purchase orders involved in a share exchange.

4. Applicants assert that the proposed share exchange program is intended to benefit the Participating Funds and their shareholders by providing the shareholders with access to the money market portfolios offered by the Money Market Funds through the share exchange, without the shareholders losing the benefit of the sales load previously paid by them for their Participating Fund shares. Applicants also assert that the proposed share exchange program is intended to benefit the Money Market Funds and their shareholders through the expansion of the Money Market Funds' group of potential investors and the advantages that can result from a larger asset base. Further, the share exchange program will permit a shareholder's redemption proceeds to be reinvested without delay.

Applicants' Conditions

The Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. Each Money Market Fund and group of Participating Funds shall have the same transfer agent (the "Transfer Agent"). The Transfer Agent will be responsible for tracking the payment of sales loads, administrative fees, and redemption fees by shareholders of investment companies or portfolios, series or classes thereof covered by the application, and otherwise will conduct share exchanges in accordance with Applicants' representations.

2. Offers of exchange pursuant to the Applicants' exchange program will be conducted in accordance with rule 11a–3 of the Act, except for that rule's requirement that an offering company make an exchange offer only to the holder of a security of the offering company, or of another open-end investment company within the same group of investment companies as the offering company.

3. Any principal underwriter or investment company relying on the requested order in order to participate in Applicants' exchange program will adopt and enforce internal control

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records of the transfer agent that eventually would process the exchange, based upon information provided by the financial services firm processing the purchase.

[4] Currently, no share exchange administrative fee is expected to be charged.

procedures that are designed to assure the program's compliance with all applicable provisions of rule 11a–3 under the Act.

4. Any principal underwriter or investment company relying on the requested order in order to participate in Applicants' exchange program will, in connection therewith, comply with all applicable provisions of rule 11a–3 and the representations and conditions of any applicable order, and monitor actively consumer complaints and other indicators of possible improprieties in connection with Applicants' exchange program.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–1517 Filed 1–21–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30189; File No. SR–MSE–91–10]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Temporarily Proposed Rule Change Relating to a Pilot Program for Stopped Orders in Minimum Variation Markets

January 14, 1992.

On May 30, 1991, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend MSE Article XX, Rule 37 to revise the MSE's procedure for the execution of "stopped" market orders [3] in minimum variation markets.[4] The MSE proposes to implement the proposed rule change as a one-year pilot program. Amendment No. 1, which made minor language changes to the proposed procedure, was submitted to the Commission on November 27, 1991.[5]

The proposed rule change was noticed in Securities Exchange Act Release No. 29958 (November 18, 1991), 56 FR 59309 (November 25, 1991). No comment letters were received on the proposal.

Current MSE Article XX, Rule 37, which governs the MSE's Guaranteed Execution System, requires specialists to grant a stop for Dual Trading System issues [6] if an out of range [7] execution will result, regardless of the spread. The Exchange's current policy regarding the execution of stopped orders is to execute such orders after the next primary market sale on a "next no better" basis.[8] The MSE states that in a minimum variation market, this policy frequently causes the anomalous result of requiring the execution of all pre-existing orders even if those orders are not otherwise entitled to be filled.

The MSE presents the following example of the operation of the Exchange's current policy for the execution of stopped market orders in minimum variation markets: assume the market for a particular stock is 20–20⅛; 50×50 with ⅛ being out of range. A customer places an order with the MSE specialist to buy 100 shares of the stock at the market and a stop is effected. The order is stopped at 20⅛ and the MSE specialist includes the order in his or her quote by bidding the 100 shares at 20. If the next sale on the primary market is for 100 shares at 20, current Exchange policy requires the specialist to execute the stopped market order at 20. However, because the stopped market order does not have time or price priority, its execution triggers the requirement for the MSE specialist to execute all pre-existing bids (in this case 5,000 shares) based on the MSE's rules of priority and precedence even though the pre-existing bids were not otherwise entitled to be filled.[9]

In the above example, if there had been no stopped order, Exchange Rule 37 (Article XX) would require the MSE specialist to fill orders at the limit price only if such orders would have been filled had they been transmitted to the primary market. Therefore, the 100 share print at 20 in the primary market would cause at most 100 of the 5,000 share limit order to be filled on the MSE. However, because the Exchange's current policy regarding stopped orders requires the 100 share stopped market order to be filled, all pre-existing bids at the same price must also be filled in accordance with Exchange Rule 16 (Article XX).

The MSE proposes to amend its policy to require the execution of stopped market orders in minimum variation markets after either (1) a transaction takes place on the primary market at the bid price or lower (for a stopped sell order) or the offering price or higher (for a stopped buy order) or (2) the displayed MSE share volume at the offering (or bid) has been exhausted. In no event will a stopped order be executed at a price inferior to the stop price.[10] Moreover, the proposed policy will require that all orders stopped pursuant to the policy be executed by the end of the trading day on which the order was stopped at no worse than the stopped price. The MSE proposes to implement the proposed rule change as a one-year pilot program.

In the above example, the customer's stopped buy order would be executed at 20⅛ if there is a sale on the primary market for 100 shares at 20⅛ or higher or at 20 if 5,000 shares trade on the primary market at 20. If neither event occurs, the specialist must execute the customer's order at 20⅛ or better by the end of the trading day.

The Exchange believes that the proposed rule change is designed to promote just and equitable principles trade. The Exchange states that the proposed rule change will continue to benefit customers because they might receive a better price than the stop price, yet it also protects MSE specialists by eliminating their exposure to executing potentially large amounts of pre-existing bids or offers when such

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240 19b–4 (1990).

[3] When a specialist agrees to "stop" a market order at a specified price, the specialist guarantees the purchase or sale of the securities at the price or its equivalent in the amount specified. See MSE Article XX, Rule 28.

[4] MSE Rule 22, Article XX sets forth the minimum variations for stocks traded on the Exchange. This rule provides that bids or offers in stocks above $1.00 per share shall not be made at less variation than ⅛ per share; in stocks below $1.00 but above $.50 per share, at a less fraction than 1/16 of $1.00 per share; in stocks below $.50 per share, at less variation than 1/32 of $1.00 per share; provided that the MSE Committee on Floor Procedure may fix variations of less than the above for bids and offers in specific securities or classes of securities.

[5] See letter from Daniel J. Liberti, Associate Counsel, MSE to Mary Revell, Branch Chief, Commission, dated November 22, 1991.

[6] The Dual Trading System of the MSE provides for the execution of both round-lot (100 shares) and odd-lot (1 to 99 shares) orders in certain issues assigned to specialists on the MSE and either the New York Stock Exchange ("NYSE") or the American Stock Exchange ("Amex"). See MSE Guide, Explanatory Notes, at 800 (CCH 1990).

[7] "Out of range" means either higher or lower than the range in which the security traded on the primary market during a particular trading day.

[8] "Next no better" means that a customer who requests a stop at a specific price won't do any worse than that price and could do better.

[9] See MSE Rule 16 (Article XX).

[10] Exchange Rule 28 (Article XX) states:

An agreement by a member or member organization to "stop" securities at a specified price shall constitute a guarantee of the purchase or sale by him or it of the securities at the price or its equivalent in the amount specified.

If an order is executed at a less favorable price than that agreed upon, the member or member organization which agreed to stop the securities shall be liable for an adjustment of the difference between the two prices.

executions would otherwise not be required under Exchange rules.

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with section 6(b)(5) [11] and section 11(b) [12] of the Act. Section 6(b)(5) requires, among other things, that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. Section 11(b) permits a specialist to accept only market or limit orders. The Commission believes that the proposed amendments to MSE Article XX, Rule 37 should further the objectives of section 6(b)(5) and section 11(b) through the implementation of a pilot program which is designed to provide a revised policy for the execution of stop orders, in minimum variation markets, while providing the possibility of price improvement to customers whose orders are granted stops.

Historically, the Commission has been concerned about the practice of stopping stock. In the 1963 Report of the Special Study of the Securities Markets,[13] the Commission commented that in many instances "[t]he practice of stopping stock against orders on the specialist's book * * * involves too great a compromise of the specialist's fiduciary obligation for personal profit without any offsetting gain to his market making function." [14] The Special Study's concern with stopping stock was that unexecuted customer limit orders on the specialist's book would be bypassed by the stopped orders. Nevertheless, the Commission has allowed the practice of stopping stock in market where the spread is twice the minimum variation because the possible harm to orders in the book would be offset by the possibility of price improvement when the spread between the bid and offer is reduced.[15] The Commission also has approved, as a one year pilot program, an NYSE proposal to stop stock in minimum variation markets under certain limited circumstances where there is an imbalance on the opposite side from the order being stopped, and the imbalance is of sufficient size, given the characteristics of the security, to suggest the likelihood of price improvement.[16]

The MSE currently has a policy for the execution of stop orders in minimum variation markets. MSE rule 37, Article XX requires that a specialist grant a stop if requested by an MSE number firm if the execution would occur outside of the primary market range for the day. Thus, this rule generally operates to ensure that MSE customers receive executions on the MSE that are no worse than if executed on the primary market. While the MSE's proposal would revise the procedures for stopping stock, the MSE has limited this practice to situations where the specialist granting stopped orders would not violate his or her fiduciary obligation to orders on the book. Under the revised procedures, stopped market orders would be executed in minimum variation markets after a transaction takes place on the primary market at the bid price or lower (or the offering price or higher) on the primary exchange or the displayed MSE share volume has been executed. The Commission, therefore, believes that it is unlikely that limit orders on the book would not be executed as a result of granting a stop to a market order under the proposed rule change. The Commission, however, requests that the MSE analyze the impact on orders on the book resulting from the execution of stopped orders at a price that is better than the stop price to determine whether the book orders are being bypassed.

The Commission believes that the proposal is consistent with Rule 11b-1(a)(2)(ii) of the Act.[17] Rule 11b-1(a)(2)(ii) requires that a specialist engage in a course of dealings for his or her own account that assist in the maintenance, so far as practicable, of a fair and orderly market. The Commission believes that the proposal should further the objectives of this Rule because the implementation of the proposal should help the specialist to provide an opportunity for price improvement to the customer whose stop order is granted, without requiring that the specialist execute other pre-existing bids or offers when such executions otherwise would not be required under Exchange rules.

The Commission also believes that the proposal is consistent with the prohibition in section 11(b) against providing discretion to a specialist in the handling of an order.[18] Section 11(b) was designed, in part, to address potential conflicts of interest that may arise as a result of the specialist's dual role as agent and principal in executing stock transactions. In particular, Congress intended to prevent specialists from unduly influencing market trends through their knowledge of market interest from the specialist's book and their handling of discretionary agency orders.[19] The Commission has stated that, pursuant to section 11(b), all orders other than market or limit orders are discretionary and therefore cannot be accepted by specialists.[20]

After careful review, the Commission concludes that it is appropriate to treat stopped orders, even under the revised pilot procedures, as equivalent to limit orders. A limit order is an order to buy or sell a stated amount of security at a specified price, or better if obtainable. The Commission believes that stopped orders are equivalent to limit orders, in this instance, because the orders would be automatically elected after a transaction takes place on the primary market at the stopped price. The Commission, therefore, believes that the requirements imposed on the specialist for granting stops in minimum variation markets provide sufficiently stringent guidelines to ensure that the specialist will implement the proposed rule change in a manner consistent with his or her market making duties and section 11(b).

Finally, the Commission believes that it is reasonable for the Exchange to test the proposed rule change in a pilot program. The Commission believes that the pilot program should provide both the Exchange and the Commission with an opportunity to study the effects of the revised procedures for stopped orders in minimum variation markets. At the same time, the pilot program should provide a benefit to customers whose orders are granted stops in minimum variation markets. The Commission, however, requests that the MSE monitor the operation of the revised procedures during the pilot program and report its findings to the Commission. This report should include, among other things, the MSE's findings with respect to the percentage of stopped orders that are executed as the stop price and the percentage of such orders that receive a price that is better than the stop price. The report should also contain an

[11] 15 U.S.C. 78f(b)(5) (1988).

[12] 15 U.S.C. 78k(b) (1988).

[13] SEC, Report of the Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess., Pt.2 (1963) ("Special Study").

[14] *Id.* at 166.

[15] See NYSE Rule 116.30; Amex Rule 109(c).

[16] See Securities Exchange Act Release No. 28999 (March 21, 1991), 56 FR 12964 (March 28, 1991) (File No. SR-NYSE-90-48

[17] 17 CFR 240.11b-1(a)(2)(ii) (1990).

[18] Section 11(b) permits a specialist to accept only market or limit orders.

[19] *See* H. Rep. No. 1383, 73rd Cong., 2d Sess. 22, S. Rep. 792, 73rd Cong., 2d Sess. 18 (1934).

[20] See, e.g., SEC, Special Study of the Securities Markets, H.R. Doc. No. 95, 88th Cong., 1st Sess., part 2, 72 (1963).

analysis of the impact on orders on the book resulting from the execution of stopped orders at a price that is better than the stopped price. The Commission requests that the MSE report its findings on these matters by September 15, 1992.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[21] that the proposed rule change is approved for a one year period ending on January 15, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-1516 Filed 1-21-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0207]

ANB Venture Corporation; License Surrender

Notice is hereby given that ANB Corporation (ANB), 33 North LaSalle Street, Chicago, Illinois, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). ANB was licensed by the Small Business Administration on September 11, 1987.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of ANB was accepted on January 6, 1992 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 10, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-1456 Filed 1-21-92; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0490]

WFG-Harvest Partners, Ltd; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1991)), WFG-Harvest Partners, Ltd., 767 Third Avenue, New York, NY 10017, incorporated under the laws of the State of New York has surrendered its license, No. 02/02-0490 issued by the SBA on September 30, 1985.

WFG-Harvest Partners, Ltd. has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of WFG-Harvest Partners, Ltd. is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company effective December 31, 1991.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 6, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-1457 Filed 1-21-92; 8:45 am]

BILLING CODE 8025-01-M

Administration

AGENCY: Small Business Administration.

ACTION: Notice Delegating Loan Approval Authority to Specific Agency Field Personnel.

SUMMARY: This notice increases the delegated authority of certain specific Small Business Administration (SBA) field personnel to approve SBA guaranteed loans. This increased authority is based upon the education, training, or experience of such personnel and is meant to expedite Agency action in processing loan applications.

EFFECTIVE DATE: This notice is effective January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, Tel. (202) 205-6490.

SUPPLEMENTARY INFORMATION: On December 19, 1991, SBA published, in the **Federal Register**, 56 FR 65823, a final rule amending § 101.3-2 of part 101, title 13, Code of Federal Regulations, which set forth a clarified standard delegation of authority to conduct program activities in SBA field offices. Previously, § 101.3-2 had set forth the standard delegation of authority to SBA field personnel as well as all deviations from the standard based upon education, experience, and/or training. The December 19, 1991 publication eliminated all deviations in favor of a standard delegation of authority. In addition, the rule provided authority by which SBA might, as it deemed appropriate, increase, decrease, or set the level of authority for any individual SBA field official in a regional district, or branch office, based upon education, training, or experience by publication of a notice in the **Federal Register**.

The Agency believes that, when appropriate, delegating increased levels of authority to field personnel yields increased benefits for program participants and SBA. SBA is authorized to guaranty up to 90% of a loan depending upon total loan amount. As such, it is essential that the Agency have qualified loan officers to process expeditiously and accurately the applications submitted. Branch managers who are delegated greater levels of authority in light of their additional education, training, or experience allows for loan applications of greater amounts being processed where both the lender and the borrower are located. In this fashion, the loan applicant and the lender are both served with quicker and accurate processing, while the Agency is served by quality lending and better relations with its participating lenders.

This notice increases the delegated authority of specific SBA officials to approve guaranteed loan applications based upon each respective officials' education, training, or experience. The SBA branch managers in Harrisburg and Wilkes-Barre, PA and in Wilmington, DE have successfully completed training courses offered by the Agency. Such training qualifies them to better analyze and process loan applications submitted by SBA participating lenders for SBA guarantees. The SBA branch manager and assistant branch manager in Gulfport, MS are loan officers with as much as 25 years experience processing SBA guaranteed loans. It is anticipated that loan volume in Gulfport would increase if the SBA participating lenders were assured that the Agency personnel there had increased delegated authority.

SBA branch managers have, as a standard, delegated authority to approve SBA guaranteed loans of up to $250,000. This notice increases the delegated loan approval authority for the branch managers in Harrisburg and Wilkes-Barre, PA and Wilmington, DE to $750,000 and the branch manager in Gulfport, MS to $500,000. Further, this notice delegates authority to approve SBA guaranteed loans to the assistant branch manager in Gulfport, MS in the amount of $500,000. This increased delegation of authority is specific to the individuals presently incumbent and continues only so long as they remain in such positions.

[21] 15 U.S.C. 78s(b)(2) (1988).

Dated: January 7, 1992.

Charles R. Hertzberg,

Assistant Administrator for Financial Assistance.

[FR Doc. 92-1459 Filed 1-21-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD8 92-01]

Lower Mississippi River Waterway Safety Advisory Committee; VTS Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II) notice is hereby given of the VTS Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee meeting. The meeting will be held on Thursday, February 20, 1992. The meeting will be held at the Crescent River Port Pilots office, 409 Belle Chasse Hwy. South, Belle Chasse, LA 70037. The meeting is scheduled to begin at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Update on recommendations for a proposed New Orleans Vessel Traffic Service.
3. Adjournment.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander E. N. Funk, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. 70130-3396, telephone number (504) 589-3074.

Dated: January 8, 1992.

J.M. Loy,

Rear Admiral, U.S. Coast Guard, Commander Eighth Coast Guard District.

[FR Doc. 92-1527 Filed 1-21-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Cuban Assets Control Regulations, Fitness and Qualification of Applicants

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: Consistent with the licensing requirements governing persons engaged in travel service to, from, and within Cuba and persons forwarding family remittances to Cuba, the Office of Foreign Assets Control invites public comment concerning the fitness and qualification of license applicants. It also informs the public of the identity of additional travel service providers and family remittance forwarders authorized to engage in these services.

DATES: Comments must be submitted on or before March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Richard J. Hollas, Chief of Enforcement, Tel.: (202) 566-5021, or Steven I. Pinter, Chief of Licensing, Tel.: (202) 535-9449, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Sections 515.560 and 515.563 of the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), were amended, effective December 23, 1988, to require that persons engaged in service transactions related to travel to Cuba or the forwarding of remittances to close relatives in Cuba obtain a specific license from the Office of Foreign Assets. Control. The Regulations provide that licenses will be issued only upon the applicant's affirmation and demonstration "that it does not participate in discriminatory practices of the Cuban government against certain residents and citizens of the United States." 31 CFR 515.560(i)(1)(ii).

The Office of Foreign Assets Control has published previously lists of license applicants, who had been granted provisional authority to provide services pending review of their completed license applications. Provisional authority based on submission of a completed license application is necessary to lawfully provide travel services or family remittance forwarding services. Subsequent to the publications of the earlier notices, 38 additional license applicants, listed below, have submitted completed applications and have been granted provisional authority to engage in these services.

In order to evaluate the assertions made by license applicants that they do not engage in discriminatory practices, and to determine the fitness and qualification of the license applicants listed below, anyone having personal knowledge regarding the applicants (including employees, officers, and directors) is invited to comment concerning the following:

1. Any evidence of discrimination based on race, color, religion, sex, citizenship, place of birth, national origin, or ability to pay (charging different amounts based on the financial means of the travelers) with regard to the provision of or payment required for accommodations and meals, or other services provided in connection with travel to, from, or within Cuba;

2. Any evidence of demanding, soliciting, receiving, or forwarding to Cuba payments or remittances in excess of the amounts permitted by § 515.563 of the Regulations, namely, family remittances to close relatives in amounts not to exceed $300 in any consecutive 3-month period to any one payee or household, and remittances for the purpose of enabling emigration from Cuba on a one-time basis in an amount not to exceed $500 to any one payee; and

3. Any evidence of charging any fees prohibited by U.S. law or any arbitrary and exorbitant fees which exceed the total of official Cuban government consular fees and reasonable service charges.

Comments should be submitted in writing to the Office of Foreign Assets Control, Department of the Treasury, Treasury Annex, Washington, DC 20220. To the extent permitted by law, the identity of anyone submitting information, as well as any identifying information provided, will be held in confidence and will not be released without the express permission of the person submitting the information. Any information provided will be evaluated by the Director of the Office of Foreign Assets Control to determine its reliability and relevance to the investigation of applicants.

List of Applicants for Licenses to Perform Travel, Carrier, and Family Remittance Forwarding Services:

Name of Applicant (Company Name of Individual); Principal Officer (If Applicant is Incorporated); Address (As Supplied by Applicant)	Travel service provider ("TSP"); Carrier service provider ("CSP"); Family remittance forwarder ("FRF")
Aero Cuba, Inc., Rolando Valdes, 815 NW 57th Avenue, #430, Miami, FL 33126.	TSP, FRF
Aerojet, Inc., Warren C. Dukes, 6101 NW 31st Way, Fort Lauderdale, FL 33309.	CSP
Air Sunshine, Inc., Mirmohamad Adili, 300 Terminal Drive, Fort Lauderdale, FL 33315.	CSP
California Florida Services, Manuel Castro, 4306 West 104th Street, Inglewood, CA 90304.	TSP, FRF
Carga Area De Yucatan, Ramon Masso Rodriguez, 919 S.W. 87th Avenue, Miami, FL 33174.	TSP, FRF

Name of Applicant (Company Name of Individual); Principal Officer (If Applicant is Incorporated); Address (As Supplied by Applicant)	Travel service provider ("TSP"); Carrier service provider ("CSP"); Family remittance forwarder ("FRF")
Caloe 25-A No. 485-A Itzimna, Apartado Postal 508, Merida, Yucatan, Mexico	
Caribe Tours, Diana M. Guasch, 4378 E. Gage Avenue, Bell, CA 90201.	TSP, FRF
C.B.T. Charters, Inc., S. Skip Taylor, 239 N.E. 20th Street, Miami, FL 33137.	TSP, CSP
Celimar Travel, Lazara T. Rodriguez, 3655 East 4th Avenue, Hialeah, FL 33135.	TSP, FRF
Cuba Express Corporation, Leonel Acosta, 4050 W. 12th Avenue, Hialeah, FL 33012.	TSP, FRF
Cuban American Business Alliance, Reggie L. Llagostera, 2323 South Voss, suite 123, Houston, TX 77057.	TSP, FRF
Cuban Travel Agency Corp., Jose Jimenez, 6884 West Flagler Street, Miami, FL 33144.	TSP, FRF
Cuba Packs International, Inc., Garciela Padron, 1161 West 29th Street, Hialeah, FL 33012.	TSP, FRF
Douglas Executive Travel, Inc., Vivian Mannerud, 169 Miracle Mile, Suite A, Coral Gables, FL 33134.	TSP, FRF
Envios Internationales, Inc., Dolores Castaneda, 3901 NW 79th Avenue, Suite 119, Miami, FL 33166.	TSP, FRF
8803 Rosevelt Avenue, Second Floor, Jackson Heights, New York, NY 11372.	
8211 B Lone Point, Houston, TX 77055.	
Francis Envios Internationales, Inc., Francisca Martinez, 88 Nagle Avenue, New York, New York 10040.	TSP, FRF
1355 E. Main Street, Bridgeport, CT 06608.	
Hight Mailing and Packaging, Jesus Villalobos, 723 West 181 Street, New York, New York 10033.	FRF
Interamerican Clerical Service Corp., Rosa C. Garcia, 4697 W. Flagler Street, Miami, FL 33126.	TSP, FRF
Interamerican Express, Inc., Maria J. Valdes, 2129 West Flagler Street, Miami, FL 33135.	TSP, FRF
Interconsul Cuba Envios, Inc., Heidy L. Ruiz, 1481 N.W. 27th Avenue, Miami, FL 33125.	TSP, FRF
3678 W. 12th Avenue, Hialeah, FL 33012	
Inter-Cuba Envios, Inc., Aida Ramos, 1943 West 60th Street, Hialeah, FL 33012.	TSP, FRF
International Leo-Cas, Inc., Leonard Castro, 7921 SW 40th Street, suite 40, Miami, FL 33155.	TSP, FRF
Lafont International Services, Manuel V. Lafont, 11675 W. Bellfort, #914, Houston, TX 77099.	TSP, FRF
Mercedes Lavandera, 8201 Blossom Avenue, Tampa, FL 33614.	TSP, FRF
Miami Air Charter, Mark W. McDonald, 13200 SW 128th Street, Miami, FL 33186.	CSP
Orzan Travel and Tours Services, Inc., Lourdes V. Orjales, 12421 SW 26th Street, Miami, FL 33175.	TSP, FRF
Pa-Cuba, Inc., Herminia Rosario, 4410 W. 16th Avenue, #2, Hialeah, FL 33012.	TSP, FRF
2750 W. 68th Street, Bay 110, Hialeah, FL 33016	
Paradise Island Airlines, Inc., S. Paul Allen, 1550 S.W. 43rd Street, Fort Lauderdale, FL 33315.	CSP
Personal Jet Charter, Inc., Corwin J. Zimmer, 5401 N.W. 15th Avenue, Fort Lauderdale, FL 33309.	CSP
Playa Azul, Corp., Jose E. Flores, 3310 SW 82nd Avenue, Miami, FL 33155.	TSP, FRF
Servicios de Importacion y Exportacion, William Hernandez Castellanos, 782 NW Le Juene Road, #447, Miami, FL 33126.	TSP, FRF
Calle 20 No. 143, Entre 7 y 9, Colonia Gineres, Merida, Yucatan, Mexico.	
Servicuba, Inc., Oscar Espinosa Hernandez, 1240 East Fourth Avenue, Hialeah, FL 33010.	TSP, FRF
Sonic Air, Vernon Green, P.O. Box 660656, Miami, FL 33266.	CSP
Torrente Enterprises Corp., Jorge Torrente, 3240 SW 129th Avenue, Miami, FL 33175.	TSP, FRF
U.S.A.—Cuba Express, Corp., Alejandro Valdes, 548 NW 57th Avenue, Miami, FL 33126.	TSP, FRF
U.S.S. Uribe Sanchez Service, Inc., Julian Uribe, 901 SW 87th Avenue, #953, Miami, FL 33174.	TSP, FRF
Via-Cuba Corp., Elsa I. Gonzalez, 2784 NW 4th Terrace, Miami, FL 33125.	TSP, FRF
Vinales Express, Inc., Hermeneguild I. Gonzalez, 8578 SW Eighth Street, Miami, FL 33144.	TSP, FRF
World Travel Service, Maria A. Diaz, 95-03 Rosevelt Avenue, Jackson Heights, New York 11372.	TSP, FRF

Dated: January 2, 1992.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 6, 1992.

Nancy L. Worthington,

Acting Assistant Secretary (Enforcement).

[FR Doc. 92-1519 Filed 1-21-92; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TREASURY

Internal Revenue Service

Internal Revenue Service Metric Conversion Plan

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice provides the Internal Revenue Service's (IRS) metric conversion plan. In compliance with the Omnibus Trade and Competitiveness Act of 1988, section 5164, the plan describes a comprehensive and integrated approach to convert to the metric system of measurement for IRS procurements and business-related activities.

DATES: This plan became effective on November 4, 1991. Comments or suggestions may be submitted in writing before July 1, 1992.

ADDRESSES: Comments or suggestions should be addressed to the Internal Revenue Service, 1111 Constitution Ave., NW., Metrication Project Office, (HR:F:MET, room 3617/IR), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ray O'Brien, Acting Manager, Metrication Project Office, (202) 927-6505.

Dated: January 14, 1992.

Approved:

David A. Mader,

Assistant Commissioner (Human Resources and Support).

Metric Conversion Plan

A. Background

Section 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418) designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce. It requires that:

"* * * each Federal agency, by a certain date and to the extent economically feasible by the end of fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units."

The new law also requires each agency to issue implementing guidelines and to report annually to Congress on actions taken, or planned, to implement the metric system. Internal Revenue Manual 12(11)7, Internal Revenue Service Program provides the implementing guidelines required by the law.

The IRS Metric Conversion Plan describes a comprehensive and integrated program to comply with Section 5164, Public Law 100-418, Executive Order 12770, applicable regulations, and Treasury Directive 75-05. The plan is intended as a practical approach to metric transition and is

consistent with the implementation efforts of other Government agencies.

Many of the conversion tasks to be accomplished under this plan will, as they progress, make it easier to acquire metric suppliers and services. Recognizing our dependence upon the transition efforts of our suppliers and contractors, our efforts will be closely coordinated with the appropriate functional subcommittees of the Metrication Operation Committee (MOC) and should act as stimulants to industries to increase their competitiveness in the world marketplace.

This plan discusses the overall IRS strategy for metrication, defines general requirements and procedures for transition efforts, and details the tasks to be accomplished by designated IRS functions. The plan will be dynamic in that it will be periodically updated to redefine the tasks when needed, add actions and goals, and include new tasks as necessitated by the transition activities of other agencies, the MOC subcommittees, or the private sector.

B. Definitions

Dual Systems. The use of both inch-pound and metric dimensions. For example, an item is designed, produced, and described in inch-pound values with soft conversion metric values also shown for information or comparative purposes.

Hard Metric. The use of only hard metric (SI) measurements in specifications, standards, supplies, and services.

Hybrid Systems. The use of both inch-pound and hard metric values in specifications, standards, supplies, and services (e.g., an engine with internal parts in metric dimensions and external fittings or attachments in inch-pound dimensions).

Inch-pound system. The English form of measurement currently used in the United States.

Metric System. The International System of Units (Le Systeme International d'Unites (SI) of the International Bureau of Weights and Measures. The units are listed in Federal Standard 376A, Preferred Metric Units for General Use by the Federal Government.

Metrification. Any act that increase the use of the metric system, including metric training and initiation or conversion; of measurement-sensitive processes and systems to the metric system.

Soft Metric. The expression of measurement in metric—equivalent units in converting from the inch-pound system. The physical dimensions of the objects are not changed.

C. Strategy

The Internal Revenue Service's metrication conversion strategy emanates from the following program requirements.

1. IRS will implement the metric system in a manner and on a schedule consistent with Public Law 100—418 and Executive Order 12770.

2. IRS will support Federal transition and national conversion to the metric system through participation on the Interagency Council on Metric Policy's (ICMP) Metrication Operating Committee (MOC) and subcommittees and other Government/industry subcommittees, associations, working panels, and groups.

3. IRS National Office and field organizations will use the metric system in procurements, grants, and other business-related activities consistent with security, operational, economic technical, logistical, training, and safety requirements.

4. IRS will stimulate industry in the change to the metric system by acquiring commercially available metric products and services that meet the functional requirements of IRS and its customers, so long as competition is maintained.

5. IRS will develop metric specifications and standards for procurements where IRS functional requirements are unique or mission specific. Commercially developed metric specifications and internationally or domestically developed standards using metric shall be adopted whenever feasible. When metric is not the predominate measurement system used by industry or accepted international standards do not use the metric measurement system, existing products or dual inch-pound/metric dimensioned products/systems may be used during the transition period.

6. IRS will retain the measurement units in which a project or product is originally designed for the life of that project or product, unless conversion is necessay or advantegeous.

7. IRS will handle metric conversion costs as normal operating expenses rather than as special one-time costs. Any additional costs and any significant cost savings resulted from metric conversion will be identified and reported, to the extent practical to the Chief Financial Officer, as part of the annual report.

8. IRS will establish training plans and practices that increase employee awareness and understanding of the metric system and IRS metric efforts.

D. IRS Metrication Program Organization

1. *Metric Executive.* Pursuant to Department of the Treasury Directive 75–05, section 7.e(2)., the Assistant Commissioner (Human Resources and Support) has been designated as the IRS Metrics Executive. The Director, Facilities and Information Management Support Division has continuing staff responsibility for the IRS Metrication Program.

2. *IRS Metrication Policy Board.* The Assistant Commissioner (Human Resources and Support) is the Chairman of the IRS Metrication Policy Board (IMPB). The IMPB is responsible for establishing IRS metric policy and recommending exclusions to the Treasury Department's policy to the Assistant Secretary (Management). The graph depicting the composition of the IMPB appears as Exhibit 1.

3. *IRS Metrication Steering Committee.* The IRS Metrication Sterring Committee (IMSC) consists of representatives from the affected IRS functions and is responsible for developing the IRS metrication transition plan as well as monitoring progress towards the milestones contained in the plan. Each IMSC member will be either the chairperson or an active participant in their respective functional subcommittee. The IMSC functional subcommittees are shown as Exhibit 2.

4. *IRS Metrication Project Office.* The IRS Metrication Project Office (IMPO) is responsible for the overall coordination of the IRS metrication effort and the provision of administrative support to the IMSC activities.

E. Responsibilities

1. The Assistant Commissioner (Human Resources and Support), will:

a. Act of the IRS Metric Executive and ensure the implementation of Public Law 100–418 and its applicable directives within the IRS;

b. Establishes IRS policy for use of the metric system of measurement and approve or disapprove deviations from that policy;

c. Appoint the IRS Metrication Officer to have continuing staff responsibility for metrication matters and to represent the IRS on the Treasury Coordinating Committee (TCC) and appropriate meetings of the MOC; and

d. Approve the organization, charter, resources, and reports of the Internal Revenue Service Metrication Steering Committee.

2. Assistant Commissioner (Procurement) will:

a. Establish policies and procedures for use of the metric system in procurements;

b. Evaluate the effects of the metric policies and practices on the IRS small business program; and

c. Ensure that IRS offices accept, without prejudice, products and services dimensioned in metric when they are offered at competitive prices and meet the needs of the Government consistent with the Federal acquisiton Regulation System (48 FAR), and ensure that acquisition planning considers metric requirements.

3. Assistant Commissioner (Finance)/ Controller will include in annual budget submissions to the Treasury Department, IRS' progress in implementing the metric system pursuant to section 12 of Public Law 100–418.

4. Assistants to the Commissioner, Chief Counsel, Chief Inspector, Regional Commissioners, and Assistant Commissioners will:

a. Designate an organizational element to monitor metric conversion activities for which they are responsible;

b. If appropriate, appoint an individual as their metric coordinator to represent their office on the IMSC and appropriate MOC subcommittees; and

c. Develop metric guidelines applicable to their specific mission and responsibility consistent with this directive and the policies and interpretations of the IMSC.

5. Chief, Office of Training Program Management will identify and coordinate appropriate metrication training programs for IRS employees.

6. Director, Facilities and Information Management, Support Division will serve as the IRS management official having continuing staff responsibility for IRS metrication matters. This includes:

a. Acting as chairperson of the IMSC;

b. Supervising the IRS Metrication Project Office;

c. Coordinating and preparing required reports; and

d. Maintaining adequate documentation to support the IRS policies, plans, decisions, and progress towards implementing the IRS metrication conversion effort.

7. Internal Revenue Service Metrication Sterring Committee (IMSC) members will:

a. Determine which functions, activities, and procedures of IRS operations require conversion to the metric system;

b. Identify barriers to metric transition;

c. Estimate costs (budgetary, opportunity, and revenue) of transition;

d. Develop and monitor the IRS Metric Conversion Plan;

e. Attend appropriate MOC subcommittee meetings as the IRS functional representative;

f. Provide input to the annual progress report required by Executive Order 12770, section 2. (e)(4); and

g. Make recommendations to the IRS Metric Executive concerning metrication policy and program matters, including proposed exceptions to metric usage.

8. IRS Metrication Project Office will:

a. Coordinate and provide administrative support for the IMSC activities;

b. Be the liaison with the MOC and Treasury Metrication Coordinating Committee;

c. Be the IRS focal point for the exchange of metrication information with IRS organizations, other government agencies, and the private sector; and

d. Establish and maintain the official files of the IRS metrication program and a reference library for metric phases: transition, implementation, and evaluation.

F. IRS Metric Conversion Plan

The IRS Metric Conversion Plan consists of three phases: transition, implementation, and evaluation.

1. *Transition.* The transition phase of the plan consists of milestones necessary to most effectively establish the Internal Revenue Service's metrication program. Representative milestones include the issuance of directives and program guidance, development of a uniform recordkeeping and reporting system, and establishment of the functional subcommittees.

2. *Implementation.* The implementation portion of the plan represents the actions required to actually make the conversion to the metric system. Since total conversion is contingent on many metrication factors, i.e., initiatives undertaken by the oversight agencies (GSA, GPO, and Commerce), the status of conversion by the industries, and progress achieved by the MOC subcommittee, this initial plan concentrates on actions that can be independently accomplished by the IRS functions. It is important to note that these actions will have little effect if the overall Government metrication effort is not supported by the leadership agencies.

The actions of the IMSC functional subcommittees comprise the majority of The milestones and tasks contained in the implementation phase. These subcommittees are categorized into the following functions:

a. Training.
b. Logistics.
  a. Space.
  b. Property.
  c. Physical Security.
c. Procurement.
d. Publishing.
  a. Printing.
  b. Mail Services.
e. Public Affairs.

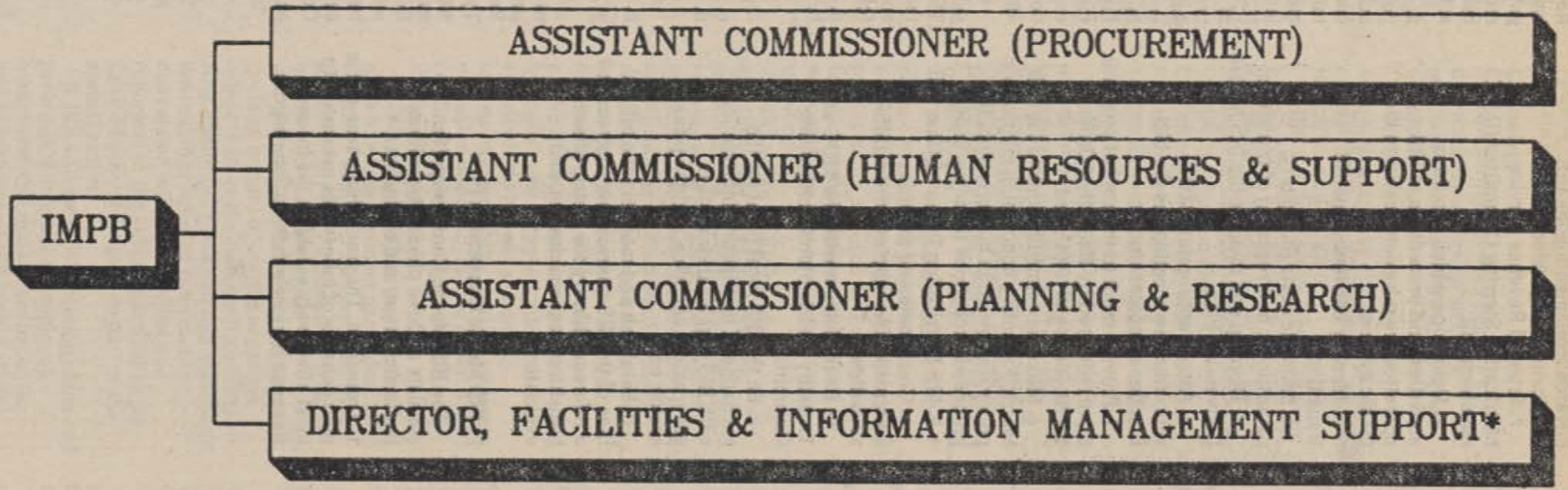
3. *Evaluation.*

The final phase of the plan is an evaluation of the progress made and problems encountered in the Internal Revenue Service's conversion effort. Typical milestones include periodic status reports of the IMSC subcommittees. Information derived from this portion of the plan is shared with all subcommittees and forms the basis for the annual progress report submitted to the Department of Commerce.

BILLING CODE 4830–01–M

Exhibit 1

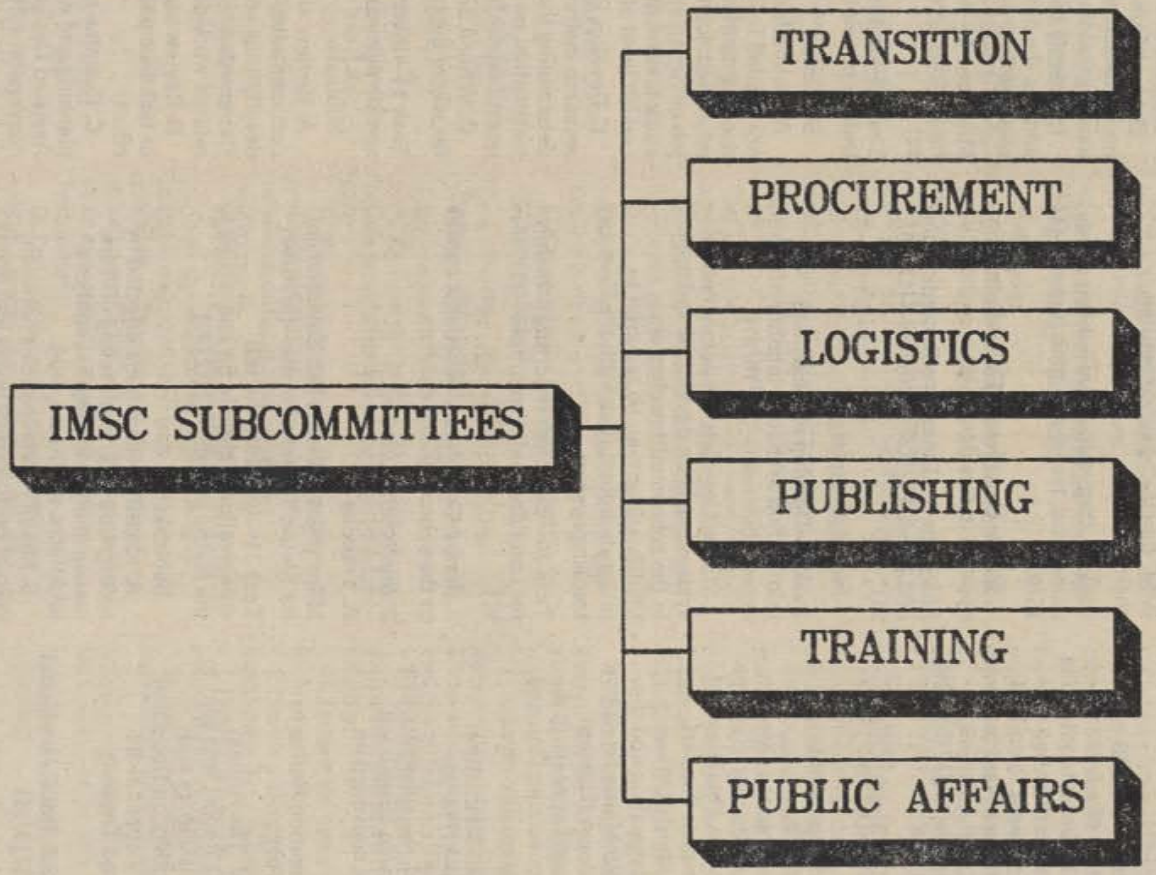
IRS METRICATION POLICY BOARD (IMPB)



*** BUREAU METRIC OFFICER**

Exhibit 2

IRS METRICATION STEERING COMMITTEE FUNCTIONAL SUBCOMMITTEES



BILLING CODE 4830-01-C

G. Milestones and Tasks

1. Transition

Milestone 1—Establish IRS Metrication Program—(11/1/91)

Status: Completed.

Task 1—Issue Internal Revenue Manual (IRM) 12 (11)7 (10/30/91)

Status: Completed. Due to IRS Procurement's estimate of a 5-year metric conversion, the format for issuing the metrication program directive was changed from a supplement to an IRM transmittal. Concurrences were received from all Assistant Commissioners, Regional Commissioners, Chief Counsel, and Chief Inspector.

Task 2—Designate IRS Metric Officer—(10/30/91)

Status: Completed. Pursuant to Treasury Directive 75-05, a memorandum was sent to the Director, Office of Management Support Systems designating the Director, Facilities and Information Management Support Division as the IRS Metric Officer. Furthermore, this designation and the designation of the IRS Metric Executive (Assistant Commissioner (Human Resources and Support) appears in the initial IRS Metric Conversion Plan and the metrication program directive.

Task 3—Convene IRS Metrication Steering Committee—(1/15/92)

Status: Completed. All subcommittee chairpersons have been designated. Formal meeting was convened on January 15, 1991.

Task 4—Issue Information Notice to employees—(12/23/91)

Status: Completed. The Annual Metrication Progress Report was sent to all Assistant Commissioners and Regional Commissioners on December 23, 1991. The report's appendices contained the IRS and Treasury conversion plans.

Milestone 2—Establish IMSC Functional Subcommittees—(11/15/91)

Status: Completed

Task 5—Enlish representatives to subcommittees—(11/15/91)

Status: Completed. Chairpersons have been designated for all IMSC Subcommittees: transition, procurement, logistics, publishing, training, and public affairs.

Task 6—Define scope, charter, and objectives of subcommittees—(10/16/91)

Status: Completed. IMSC subcommittee charters containing scope, responsibilities, and objectives have been developed and distributed to subcommittee chairpersons.

Task 7—Perform functional subcommittee training—(10/25/91)

Status: Completed. Instructional video tapes obtained from the United States Metric Association were shown to the IMSC functional subcommittee chairpersons.

Task 8—Determine final subcommittee milestones, tasks, and time frames—(11/15/91)

Status: Completed. This information appears in this document.

Milestone 3—Determine Recordkeeping and Reporting Requirements—(12/26/91)

Status: Completed

Task 9—Develop management information system to monitor milestone accomplishment—(12/16/91)

Status: Completed. Internal control system has been developed and appears in the subcommittee charters. Modifications may be required to integrate information with the Treasury tracking system.

Task 10—Establish reporting schedules for functional subcommittees—(11/15/91)

Status: Completed. Schedules appear in the subcommittee charters.

2. Implementation

A. Training

Milestone 4—Assess IRS Environment for Metric Training Needs—(3/16/92)

Task 11—Evaluate the IRS organizational climate for converting to the metric system—(2/12/92)

Subtasks:

A. Identify occupations affected by metrication (e.g., contracting officers, management and program analysts, architects, engineers, etc.).

B. Identify discrepancies between current performance levels and levels required by metrication.

C. Determine the major reason for the performance level discrepancies (i.e., lack of metric knowledge and skills, organizational or environmental interference, ete.).

D. For each major performance level discrepancy, determine if metrication training is or is not a solution.

Task 12—Determine the focus of metrication training development efforts—(3/16/92)

Subtasks:

A. Examine existing measurement-sensitive training to identify related performance level discrepancies.

B. Determine if current training strategies (e.g., on-the-job training) are conducive for metrication.

C. Identify future training requirements.

D. Identify metrication activities revisions necessary to correct the existing training program deficiencies.

E. Identify the activities necessary to address the new metrication training requirement.

Milestone 5—Analyze Functional Needs for Metric conversion Training—(5/22/92)

Task 13—Describe the metrication trainee population—(4/1/92)

Subtasks:

A. Determine the characteristics that are needed to describe the employees needing metrication training (e.g., age, education, job descriptions, grade levels, job environment, mathematical aptitude, entry level skills/prerequisities, and current level of proficiency).

B. Develop, distribute, and analyze the research instrument(s) to be used for determining the employees needing metrication training (e.g., survey, questionnaire).

C. Write a description of the trainees for whom the training is intended.

Task 14—Inventory the measurement-sensitive processes—(4/8/92)

Subtasks:

A. Review all available occupational documentation such as position descriptions and functional mission statements to identify measurement-related work definitions.

B. Review any previous task analyses or task lists paralleling the metrication effort.

C. Examine trends in workforce planning and design (e.g., Computer Assisted Design (CAD), metric conversion software, etc.) to determine their applicability to IRS metrication training.

D. Gather information about measurement-related tasks that are done in the specific jobs.

E. Construct initial metric task inventory.

F. Verify accuracy and completeness of initial task inventory with job incumbents and managers.

C. Revise initial task inventory into a final task inventory.

H. Assign unique identifying numbers to all final metric tasks.

Task 15—Select the measurement-sensitive processes for metrication training—(4/15/92)

Subtasks:

A. Establish with the IMSC functional subcommittees, the factors, method, and criteria for metric task selection, as well as a recourse for resolving differences.

B. Develop and analyze the research instruments used to inventory the measurement-sensitive processes.

C. Select tasks for training based on selection method and criteria.

E. Convene a representative group of job incumbents and supervisors to verify selections.

F. Record selections and rationale for decisions.

F. Compile the metrication training task list.

Task 16—Analyze the measurement-sensitive processes—(5/15/92)

Subtasks:

A. Define sub-tasks including, as appropriate, conditions, cues, and standards for metric use.

B. Very the metric task and sub-task specifications.

Task 17—Conduct a learning analysis—(5/22/92)

Subtasks:

A. Identify the supporting skills and knowledge required to perform the metrication tasks.

B. Delineate the relationships (customary measurement system v. metric system) among the skills and knowledge required by the job (i.e., dependent, independent, and supportive).

C. Establish the metric skills and knowledge baseline.

D. Identify potential job aids for as many metric tasks as possible.

E. Develop observable and measurable learning objectives for the remaining metric tasks.

Milestone 6—Design the Metrication Training Methodology—(6/17/92)

Task 18—Develop the metrication training plan—(5/29/92)

Subtasks:

A. Assess the effectiveness of existing IRS training plans and corresponding course material system to determine their applicability to metrication training.

B. Identify external metric training courses, material, and delivery systems (OPM, GSA, OMB, Commerce, universities, etc.) to determine their appropriateness to IRS.

C. Organize metric training objectives according to the most effective method of instruction (i.e., group instruction, self-instruction, and on-the-job (OJT) training).

D. Integrate and sequence group-instruction, job aids, self-instructional, and OJT into a training plan, specifying training location and the associated delivery systems.

E. Make necessary revisions to the list of prioritized training revisions and developmental activities.

Task 19—Devise the metrication course design strategy—(6/5/92)

Subtasks:

A. Group and organize the metrication training objectives into lessons/modules.

B. Specify which metrication learning activities are necessary to accomplish each objective.

C. Select instructional methods and media that will optimally present the activities of each metric objective.

D. Select test items, if appropriate, that will comprise end-of-lesson/module and end-of-course test instruments.

E. Outline course administration and instructor requirements.

F. Determine which materials are to be used to educate the instructors, on-the-job instructor (OJI), coach, etc.

G. Complete the course design strategy outline.

Task 20—Prescribe the OJT design strategy—(6/12/92)

Subtasks:

A. Review the task specifications which were selected as appropriate for OJT.

B. Group and organize the metric training objectives in terms of job environment and typical work assignments.

C. Specify learning activities which support the objectives and how they may be accomplished (e.g., group instruction, Continuing Professional Education (CPE), self-instruction, actual task assignment, coaching, and peer instruction).

D. Specify the methods and media which support each learning activity and reflect realistic job conditions.

E. Describe the roles and duties of the group manager and the one-the-job instructor (OJI), as well as the OJI selection criteria.

F. Determine administrative guidelines to include in student training system (e.g., job book, performance summary, etc.).

G. Specify the materials needed the OJI.

Task 21—Prescribe the metric job aid design strategy—(6/12/92)

Subtasks:

A. Review potential job aids to determine their applicability to the metrication training objectives (i.e., their context with the job environment, how each job aid will be introduced, used, and whether it requires training.

B. Specify the job aid type, format, and medium.

C. Examine existing job aids to find opportunities for modification, revision, and/or linkage with the new ones.

D. Outline the job aid design to include specifications of content, organization, sequence of steps, graphics, etc., as appropriate.

Task 22—Prescribe the training evaluation strategy—(6/17/92)

Subtasks:

A. Review the metrication work requirements to define context of the evaluation strategy.

B. Prepare assessment guidelines for reviewing metrication work products.

C. Select the methodology for evaluating trainees' reactions to the training.

D. Select the methodology for evaluating trainees' OJT performance.

E. Select the methodology for evaluating the impact on organizational effectiveness brought about by the training.

F. Specify what trainee and training data will be required for implementation of the evaluation strategy, as well as sources of information.

G. Develop appropriate data gathering instruments; ensure reliability and validity.

H. Determine sample size, sampling techniques, etc.

I. Develop the plan for training evaluation data collection and analysis.

J. Determine when and how to train evaluators/administrators.

K. Specify resource requirements for completing the evaluation.

Milestone 7—Develop the Training Materials—(8/31/92)

Task 23—Develop the draft materials—(7/15/92)

Subtasks:

A. Review existing training materials (IRS and non-IRS produced) to determine whether they can be modified for the design and evaluation strategy outline.

B. Identify what instructional materials must be developed, purchased, and/or what changes need to be made to existing materials.

C. Develop printed training materials for the students, instructors, and/or administrators.

D. Develop audio, visual, audiovisual materials, and job aids.

E. Develop computer-based training (CBT) courseware.

F. Develop OJT program material/guidelines.

G. Perform technical and functional review of material for content accuracy; disclosure review, as appropriate.

H. Develop the testing instruments.

Task 24—Pilot the use of the draft materials—(8/14/92)

Subtasks:

A. Compile representative samples of the populations (e.g., students, trainers, instructors, and OJTs).

B. Specify methodology/criteria for distributing draft materials, including data gathering instruments.

C. Pretest the sample.

D. Pilot instructor-dependent materials (classroom courses) and OJT guidelines and materials.

E. Developmentally test instructor-independent materials (self-instruction modules, job aids, and CBT courseware).

F. Post-test and interview the samples.

G. Validate self-instruction and CBT courseware materials.

H. Analyze data and prepare data summary report.

Task 25—Revise and produce final version of the draft materials—(8/31/92)

Subtasks:

A. Consult data summary report.

B. Revise materials to correct weaknesses and fill gaps according to recommendations presented in the report.

C. Establish trainee and instructor training and preparation times.

D. Prepare camera copy, audio/visual/audiovisual masters, job aids, and final CBT courseware.

E. Arrange for printing, reproduction, and distribution (e.g., prepare IRS Form 1767–T, Publishing Services Requisition for training publications).

Milestone 8—Conduct Metrication Training—(To be determined)

Task 26—Implement training tracking system—(6/15/92)

Subtasks:

A. Prepare Course Catalog Listing (IRS Form 9123).

B. Maintain Electronic Status Notice database.

C. Prepare audiovisual documentation.

D. Update the National Office Training and Development Guide (IRS Document 6054).

E. Update the Training Aids Catalog (IRS Document 6314).

F. Update the Training Materials Catalog (Training Publications Distribution System (TPDS), IRS Document 6398A).

G. Update Training Program Index (IRS Document 6172).

H. Specify how training and trainee data are to be maintained and accessed.

I. Specify how trainees/groups of trainees will be tracked (for training evaluation purposes) subsequent to training.

Task 27—Prepare training program guidelines—(6/15/92)

Subtasks:

A. Ensure that administrative systems will support the metrication training efforts.

B. Prepare Internal Revenue Manual (IRM) guidelines.

C. Submit IRM guidelines for approval and transmittal.

Task 28—(Oversee metrication training implementation—(To be determined)

Subtasks:

A. Select qualified instructors, OJIs, evaluators, and administrators.

B. Train instructors, OJIs, and administrators.

C. Select individuals for training.

D. Prepare classroom sites.

E. Issue reporting instructions.

F. Distribute training materials.

G. Conduct training (classroom, OJT, self-instruction, etc.)

H. Record training tracking system data.

Milestone 9—Evaluate Metrication Training Program—(To be determined)

Task 29—Evaluate trainee reaction and development—(To be determined)

A. Identify the population or sample of the trainees to evaluate.

B. Prepare guidelines for evaluation.

C. Coordinate administration of instructions and collection of data regarding student reaction and learning achievement.

D. Analyze and interpret data.

E. Prepare evaluation reports for student reaction and learning achievement.

F. Make recommended adjustments, as appropriate.

Task 30—Evaluate job performance and organizational impact of metrication training—(To be determined)

Subtasks:

A. Identify the population or sample of the trainees to evaluate.

B. Make arrangements for any field visits.

C. Notify field respondents of their participation and responsibilities.

D. Select observers, interviewers, or survey administrators, as appropriate.

E. Train observers, interviewers, or survey administrators, as appropriate.

F. Coordinate administration of instruments, surveys, and supervisory input regarding job performance of trainees.

G. Obtain additional data about job performance and task performance.

H. Review organizational data and/or survey upper level management regarding organizational impact of training programs.

I. Analyze and report data.

J. Prepare evaluation reports.

B. Logistics

Milestone 10—Coordinate Plan Elements with Federal Oversight Agencies—(2/12/92)

Status: Pending

Task 31—Transmit plan to Commerce, GSA, OPM, MOC subcommittees, etc.—(12/13/91)

Status: Pending. The initial IRS Metric Conversion Plan, including the preliminary milestones and tasks for the IMSC Logistics Subcommittee have been sent to the Department of Commerce. As soon as the appropriate offices are identified within GSA, the IRS plan will be transmitted. Likewise, pending the outcome of the recharting of the MOC Procurement and Supply Subcommittee, the plan will be sent to those entities.

Task 32—Establish contacts with Federal oversight agencies (11/29/91)

Status: Pending. Initial contacts are in progress through the Department of Commerce. The next step will be to use the appropriate MOC functional subcommittees to establish these contacts. The Chairman of the IMSC Logistics Subcommittee has developed communications with the MOC Construction Subcommittee.

Task 33—Update plan to include oversight agency revisions and developments—(2/12/92)

Status: Pending. IRS will continue to incorporate GSA's detailed conversion plan. In addition, the MOC Construction Subcommittee's transition plan has been received and will soon be analyzed to determine its impact on the IRS plan.

Milestone 11—If Appropriate, Revise Directives, Guidelines, and Publications to Include Metric Policy, Procedures, and Dimensions—(9/30/92)

Status: Pending.

Task 34—Inventory IRS issuances for measurement-sensitive references—(3/16/92)

Status: Pending. Initial briefings have transpired to determine the strategy for obtaining a comprehensive listing of measurement-sensitive references in IRS documents. A decision has been reached to perform a computer-assisted key-word-in-context (KWIC) search of pertinent portions of the LEXIS system.

Task 35—Analyze need for conversion—(5/14/92)

Status: Pending. The respective functional programs within the IRS Facilities Standards Branch will be responsible for analyzing their corresponding portions of measurement-sensitive material.

Task 36—As appropriate, issue revised directives, guidelines, and publications—(9/30/92)

Status: Pending. A procedural decision has been made to include metrication revisions to documents requiring changes for other purposes (i.e., organizational, functional, policy, changes, etc.).

Milestone 12—Advise the Private Sector of Planned Metrication Policy and Procedural Changes—(7/24/92)

Status: Pending accomplishment of Task 38

Task 37—Transmit plan to the American National Metric Council (ANMC) and United States Metric Association (USMA)—(3/16/92)

Status: Completed. An acknowledgement has been received from ANMC who intends to treat IRS as a "demonstration agency."

Task 38—Participate in metric associations' meetings and conferences—(7/24/92)

Status: Pending. As of yet, IRS has not been notified of the scheduling of meetings and conferences.

C. Procurement

Milestone 13—Advise IRS Procurement Personnel of Metric Policy—(8/31/92)

Task 39—Issue IRS supplement to Treasury Acquisition/Procurement Regulation—(To be determined by issuance of TAPR)

Task 40—Issue IRS acquisition procedures—(8/31/92)

Subtasks	Responsible office(s)
A. Develop and implement the metric communication plan.	Office of Procurement Policy and Regional Chief Procurement Officers (RCPOs).
B. Raise metric awareness.	Office of Procurement Policy and field RCPOs.
C. Revise IRS Acquisition Procedures (IRSAP).	Office of Policy and Procedures.
D. Issue Policy and Procedures Memorandum.	Office of Policy and Procedures.

Milestone 14—Adopt Procedures to Foster the Use of Metrics in the Procurement Function—(8/31/92)

Task 41—Establish guidelines for metric analysis in major acquisitions over $20 million—(8/31/92)

Subtasks	Responsible office(s)
A. Include metric analysis in Source Selection Plan (SSP).	Contracting Officers (National Office & field).
B. Issue guidance to heads of offices for advance procurement planning and metric analysis (over $25,000).	Office of Policy and Procedures and RCPOs.
C. Develop a database of metric commodities and sources.	Office of Policy and Procedures.
D. Sponsor training for all N.O. and field contracts and procurement personnel.	Office of Policy and Procedures.
E. Include metrication as a topic in continuing professional education (CPE).	National Office and field.
F. Include interview question regarding metric knowledge and experience for procurement positions.	National Office and field.

Task 42—Establish guidelines for metric analysis in acquisitions under $20 million—(8/31/91)

Subtasks	Responsible office(s)
A. Issue a request to program offices to identify measurement-sensitive requirements.	Office of Policy and Procedures and RCPOs.
B. Provide a status of metric conversion through N.O. Procurement Process to Procurement and Program personnel.	Office of Policy and Procedures.
C. Provide guidance to program offices regarding metric-related questions for trade conferences and market surveys.	Office of Policy and Procedures.

Task 43—Revise requisition forms to accommodate metric conversions—(8/31/92)

Subtasks	Responsible office(s)
A. Identify and review IRS originated procurement related forms for possible revisions.	Office of Policy and Procedures
B. If revised, issue IRS Form 1334, Requisition for Services and Supplies, Blanket Purchase Agreements (BPAs), logs, etc.	Office of Policy and Procedures
C. Coordinate printing and distribution of revised forms.	Office of Policy and Procedures and Publishing Services.

Task 44—Include evaluation of metric conversion efforts as topic for field assistance visits—(8/31/92)

Milestone 15—Establish Communication With the Private Sector Concerning Procurement Metrication Initiatives of IRS—(8/31/92)

Task 45—Identify measurement-sensitive requirements in contract forecast submissions—(8/31/92)

Subtask	Responsible office(s)
A. Request that Treasury modify their software program for contract forecast reports.	Office of Policy and Procedures.

Task 46—Participate in private sector outreach activities (such as industry conferences and counseling sessions with small businesses)—(8/31/92)

Subtasks	Responsible office(s)
A. Participate in Metric Week activities through posters, exhibits, videos, speakers, etc.	National Office and field.
B. Subscribe to magazines and newsletters on metrication in the private sector.	Procurement managers (National Office and field).

Subtasks	Responsible office(s)
C. Provide a list of IRS measurement-sensitive requirements for the private sector.	Office of Policy and Procedures.

Task 47—Conduct survey of the metric marketplace using the ANMC, USMA, CBD, conferences, etc.—(8/30/92)

Subtask	Responsible office(s)
A. Compile list of IRS commodities available in metric dimensions.	Office of Policy and Procedures.

Task 48—Develop questionnaire for IRS small business specialists to use during counseling sessions—(8/30/92)

Task 49—Contribute articles to metric magazines and publications—(8/30/92)

D. Publishing

Milestone 16—Assess Status of Metrication in the Printing and Paper Manufacturing Industries—(8/30/92)

Status: Pending.

Task 50—Coordinate plan with the GPO and Postal Service—(6/10/92)

Status: Pending

Subtasks:

A. Transmit initial plan milestones and tasks to GPO and Postal Service.

B. Research the status of metrication in major printing and paper manufacturing firms.

C. Update IRS plan to incorporate policy and procedural guidance established by GPO and the Postal Service.

D. Participate on TCC Publishing Subcommittee.

E. Transmit plan milestones and tasks to the Department of Defense.

F. Public Affairs

Milestone 17—Inform the Public of Metrication Developments—(8/30/92)

Status: Pending

Task 51—Publish IRS Metric Conversion Plan in the Federal Register—(5/15/92)

Status: Pending

Subtasks:

A. Explore costs and funding availability through Chief Counsel (Technical).

B. Pursue likelihood of having the Treasury Department issue the bureaus' plans in one Federal Register issuance.

Task 52—Issue significant IRS metrication decisions, procedures, etc. in Federal Register or press releases—(8/30/92)

Status: Pending

Subtasks:

Same as Task 51.

Task 53—Issue metrication policies, procedures, and developments in the Commerce Business Daily—(8/30/92)

Status: Pending

Phase III—Evaluation

Milestone 18—Prepare annual report describing IRS accomplishment of plan milestone and goals—(10/23/92)

Task 53—Compile IRS input of metric conversion achievements—(10/5/92)

Task 54—Identify IRS problems or barriers discouraging metric conversion—(10/23/92)

[FR Doc. 92-1327 Filed 1-21-92; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "When Kingship Descended from Heaven: Masterpieces of Mesopotamian Art from the Louvre" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Arthur M. Sackler Gallery, Smithsonian Institution, Washington, DC, beginning on or about March 8, 1992, to on or about August 9, 1992, and of some of the objects at the Metropolitan Museum of Art, New York, New York, following exhibition in Washington, is in the national interest.

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: January 14, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92-1462 Filed 1-21-92; 8:45 am]

BILLING CODE 8230-01-M

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Proposed collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256. USIA is requesting approval for a three-year extension as well as approval for revisions made to the Fulbright Teacher Exchange Program, United States Information Agency Application for Teaching Positions/Seminars Abroad under OMB control number 3116-0181 which expires June 30, 1992. The proposed revisions are suggested to ensure easier readability and clarity of instructions for applicants. Estimated burden hours per response is two (2) hours. Respondents will be required to respond only one time.

DATES: Comments should be submitted no later than February 21, 1992.

Copies: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Debbie Knox, United States Information Agency, M/ASP, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619-5503; and OMB review: Ms. Lin Liu, Office of Information and Regulatory Affairs, Office of Management and

Budget, New Executive Office Building, Washington, DC 20503, Telephone (202) 395–7340.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to average two (2) hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the United States Information Agency, M/ASP, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Fulbright Teacher Exchange Program United States Information Agency Application for Teaching Positions/Seminars Abroad.

Form Number: IAP 92.

Abstract: To be used by applicants under the Fulbright Teacher Exchange Program which provides opportunities for U.S. teachers to exchange positions for designated periods with foreign counterparts, or to attend one of a number of short-term seminars abroad on a variety of topics.

Proposed Frequency of Responses:

No. of Respondents—940.
Recordkeeping Hours—.1.
Total Annual Burden—2,609.

Dated: January 15, 1992.

Rose Royal,
Federal Register Liaison.

[FR Doc. 92–1472 Filed 1–21–92; 8:45 am]
BILLING CODE 8230–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendments to sentencing guidelines, policy statements, and commentary. Request for public comment. Notice of hearing.

SUMMARY: On January 2, 1992, (57 FR 90) the Commission promulgated 36 amendments to the sentencing guidelines, policy statements, and commentary. The Commission is considering promulgating two additional amendments. The proposed amendments or a synopsis of issues to be addressed are set forth below. The Commission may report amendments to the Congress on or before May 1, 1992. Comment is sought on these two supplementary amendments, as well as all proposals and alternative proposals published January 2, 1992.

DATES: Public comment should be received by the Commission no later than March 2, 1992, in order to be considered by the Commission in the promulgation of amendments due to the Congress by May 1, 1992. The Commission has scheduled a public hearing on these amendments for February 25, 1992, at 9:30 a.m.

ADDRESSES: Comments should be sent to: United States Sentencing Commission, 1331 Pennsylvania Avenue, NW., suite 1400, Washington, DC 20004, Attention: Guideline comment.

The hearing will be held at the Ceremonial Courtroom, United States Courthouse, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 626–8500.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the U.S. Government. The Commission is empowered under 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. The statute further directs the Commission to periodically review and revise guidelines previously promulgated and authorizes it to submit guideline amendments to the Congress no later than the first day of May each year. See 28 U.S.C. 994(o), (p).

Ordinarily, the Administrative Procedure Act rule-making requirements are inapplicable to judicial agencies; however, 28 U.S.C. 994(x) makes the Administrative Procedure Act rulemaking provisions of 5 U.S.C. 553 applicable to the promulgation of sentencing guidelines by the Commission.

Section 1B1.10 of the United States Sentencing Commission Guidelines Manual sets forth the Commission's policy statement regarding retroactivity of amended guideline ranges. Comment is requested regarding whether any of the proposed amendments should be made retroactive under this policy statement.

Although the amendments below are specifically proposed for public comment and possible submission to the Congress by May 1, 1992, the Commission emphasizes that it welcomes comment on any aspect of the sentencing guidelines, policy statements, and commentary, whether or not the subject of a proposed amendment.

Note: Publication of an amendment for comment does not necessarily indicate the view of the Commission or any individual Commissioner on the merits of the proposed amendment.

Authority: 28 U.S.C. § 994 (a), (o), (p), (x).

William W. Wilkins, Jr.,
Chairman.

Section 1B1.5. Interpretation of References to Other Offense Guidelines

37. *Issue for Comment:* The Commission seeks comment regarding whether section 1B1.5 (Interpretation of References to Other Offense Guidelines) and/or its commentary should be amended to further clarify how the guidelines are to be applied when a Chapter Two offense guideline references another guideline.

Section 5G1.3. Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment

38. *Proposed Amendment;* Section 5G1.3(b) is amended by deleting "or if the prior undischarged term of imprisonment resulted from a federal offense and was imposed pursuant to the Sentencing Reform Act,".

Section 5G1.3(c) is amended by inserting "(Policy Statement)" immediately before "In any other case".

Reason for Amendment: This amendment deletes the second prong of § 5G1.3(b). Cases currently addressed by this prong would henceforth be addressed by subsection (c). Consistent with the structure of the Guidelines Manual, subsection (c) is expressly designated a policy statement. The Commission has found a number of problems in implementation of the second prong of subsection (f). This amendment would provide for consideration of such cases under subsection (c), which is designed to produce the same result but requires less precise calculations.

[FR Doc. 92–1471 Filed 1–21–92; 8:45 am]
BILLING CODE 2210–40–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 14
Wednesday, January 22, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 F.R. 953.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Wednesday, January 22, 1992.

ADDED TO THE AGENDA:

Rule 4.7—proposed rules on accredited investors.

Guideline on economic and public interest requirements for contract market designation.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–63142.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–1670 Filed 1–17–92; 1:14 pm]

BILLING CODE 6351–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, January 27, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building: C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: CLOSED.

MATTERS TO BE CONSIDERED:

1. Matters relating to the Plans administered under the Federal Reserve system's employee benefits program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 17, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–1701 Filed 1–17–92; 8:45 am]

BILLING CODE 6210–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, February 4, 1992, in Miami, Florida. The meeting is open to the public and will be held in Conference Room 102–B at the Miami Post Office, 2200 NW 72nd Avenue. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, February 3, 1992, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

February 4–8:30 a.m. (Open)—Room 102–B, Miami Division

1. Minutes of Previous Meeting, January 6–7, 1992.
2. Remarks of the Postmaster General. (Anthony M. Frank)
3. Appointment of Audit Committee Members. (Vice Chairman Griesemer)
4. Quarterly Report on Service Performance. (Ann McK. Robinson, Consumer Advocate)
5. Quarterly Report on Financial Performance. (Comer S. Coppie, Senior Assistant Postmaster General, Finance Group)
6. Capital Investment. (Stanley W. Smith, Assistant Postmaster General, Facilities Department, and Hector A. Barraza, Wichita, Kansas, Field Division General Manager/Postmaster)
   a. Kansas City, Kansas, GMF
7. Report on the Southern Region. (Jerry K. Lee, Sr., Regional Postmaster General)
8. Report on the Miami Division. (James C. Walton, Field Division General Manager/Postmaster)
9. Tentative Agenda for the March 9–10, 1992, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 92–1692 Filed 1–17–92; 2:40 pm]

BILLING CODE 7710–12–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 20, 27, February 3, and 10, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of January 20

Tuesday, January 21

12:30 p.m.
Briefing on Enforcement Strategy Related to Contaminated Sites (Closed—Ex. 9 and 10)

Thursday, January 23

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 27—Tentative

Wednesday, January 29

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 3—Tentative

Wednesday, February 5

1:30 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

Thursday, February 6

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 10—Tentative

Wednesday, February 12

1:30 p.m.
Briefing on Requirements for Integral System Testing of Westinghouse AP–600 (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: "Collegial Discussion of Items of Commissioner Interest" scheduled for January 16, was *cancelled.*

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: January 17, 1992.
William M. Hill, Jr.,
Office of the Secretary.
[FR Doc. 92-1683 Filed 1-17-92; 2:17 pm]
BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 57, No. 14
Wednesday, January 22, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 104

[Notice 1991-24]

Loans From Lending Institutions to Candidates and Political Committees

Correction

In rule document 91-30766 beginning on page 67118 in the issue of Friday, December 27, 1991, make the following corrections:

1. On page 67118, in the first column, in the **SUMMARY**, in the fourth line, "of" should read "to".

2. On the same page, in the third column, in the last paragraph, in the fifth line, "loan" should read "loans".

3. On page 67122, in the third column, in the first paragraph, in the seventh line, "not" should read "now".

4. On the same page, in the same column, in the last paragraph, in the tenth line, "my" should read "may".

5. On page 67123, in the first column, in the fourth paragraph, in the fifth line, "reports" should read "receipts".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91F-0431]

Ciba-Geigy Corp.; Filing of Food Additive Petition

Correction

In notice document 91-29099, appearing on page 63737, in the issue of Thursday, December 5, 1991, make the following correction:

On page 63737, in the second column, under **SUPPLEMENTARY INFORMATION:**, in the third line, "sec. 490" should read "sec. 409".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88F-0372]

Ciba-Geigy Corp.; Withdrawal of Food Additive Petition

Correction

In notice document 91-29100, appearing on page 63737, in the issue of Thursday, December 5, 1991, make the following correction:

On page 63737, in the 3rd column, under **SUPPLEMENTARY INFORMATION:**, in the 15th line, "not" should read "now".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90P-0218]

Canned Fruit Cocktail Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

Correction

In notice document 91-29103, beginning on page 63737, in the issue of Thursday, December 5, 1991, make the following correction:

On page 63738, under **SUPPLEMENTARY INFORMATION:**, in the second column, in the first full paragraph, in the eighth line, "an" should read "and".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0481]

Chelsea Laboratories, Inc.; Withdrawal of Approval of 20 Abbreviated New Drug Applications

Correction

In notice document 91-29105, appearing on page 63740, in the issue of Thursday, December 5, 1991, make the following corrections:

1. On page 63740, in the first column, under **EFFECTIVE DATE:**, "December 8" should read "December 5".

2. On the same page, in the same column, in the table, under the column heading ANDA No., in the third line, "ANDA 70140" should read "ANDA 70-140".

3. In the same table, under the column heading Drug, in the 11th line, "Propranolol" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0352]

Chelsea Laboratories Inc., Withdrawal of Approval of 12 Abbreviated New Drug Applications

Correction

In notice document 91-29104, beginning on page 63740, in the issue of Thursday, December 5, 1991,, make the following corrections:

1. On page 63740, in the third column, in the table, in the column under the heading Drug, in the first line, "Perphenazine" was misspelled.

2. On the same page, in the same column, in the first full paragraph, in the sixth line, "manufacturer" should read "manufacture".

3. On page 63741, in the first column, in the third line, "and" should read "any".

4. On the same page, in the same column, in the fourth line, "ground" should read "grounds".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-940-4730-12]

Filing of Plats of Survey

Correction

In notice document 91-30615 appearing on page 66640 in the issue of Tuesday, December 24, 1991, make the following correction:

In the first column, in the land description, in the fifth line, "T. 51" should read "T. 57".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-ANE-04; Amendment 39-8036, AD 91-20-02]

Airworthiness Directives; General Electric Company (GE) CF6-80C2 Series Turbofan Engines

Correction

In rule document 91-25717, beginning on page 55231, in the issue of Friday, October 25, 1991, make the following correction:

§ 39.13(3)(b) [Corrected]

On page 55232, in the third column, in § 39.13(3)(b), in the third line, "P/N 130M31G10," should read "P/N 1303M31G10,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-91-33]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

Correction

In notice document 91-21790, beginning on page 46348, in the issue of Wednesday, September 11, 1991, make the following correction:

On page 46349, in the second column, in the file line at the end of the document, "FR Doc. 91-27190" should read "FR Doc. 91-21790".

BILLING CODE 1505-01-D

federal register

Wednesday
January 22, 1992

Part II

Department of Health and Human Services

Indian Health Service

Core Data Set Requirements; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Core Data Set Requirements

AGENCY: Indian Health Service, HHS.

ACTION: Notice of Indian Health Service Core Data Set Requirements (CDSR).

FOR FURTHER INFORMATION CONTACT: Jack Markowitz, telephone (301) 443–0750 or Anthony D'Angelo, telephone (301) 443–1180. (These are not toll free numbers.) Copies of the forms referenced as being contained in appendix A may be obtained by contacting Anthony D'Angelo, Indian Health Service, room 6–41, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS) has established a set of core program data elements that all IHS programs and facilities are required to submit for the IHS National data base.

These core data requirements are necessary for good management purposes and to fulfill Congressional and other mandatory reporting requirements including the requirements for meeting the management information needs of IHS and tribal contractors set out in section 602 of the Indian Health Care Improvement Act, Public Law 94–437, as amended (25 U.S.C. 1662). The core data requirements were developed by a joint IHS and Tribal Representative Work Group over a period of seven months. Two meetings were held—December 1988 and June 1989. The participants included 11 IHS personnel, 8 tribal personnel, and 9 persons representing the various IHS information systems. The efforts of the working group were a major step toward reconciling the differences in data priorities between the IHS and providers and ensuring the development of a core data set that has beneficial uses and reasonable costs.

The core data set requirements were published in the **Federal Register** on August 7, 1990, as an IHS proposal with an opportunity to comment. This final notice takes into account the comments that were received from 11 IHS offices and 12 tribal groups. There were general comments in support of or against the concept of the core data set. There were specific comments indicating the need to add or delete data elements or reporting requirements. There were also comments requesting clarification of some aspects of the requirements. The significant changes to the core data set requirements as a result of the comments include:

(1.) Reduction of the reporting burden associated with the Facility Data System and the Environmental Health Reporting System (i.e., one form is now used for both purposes thereby eliminating redundant reporting of data);

(2.) Provision of a sampling option for eight IHS information systems (i.e., Dental Reporting System—non-clinical activities, Environmental Health Activity Reporting and Facility Data System—environmental health activities, Mental Health and Social Services Reporting System, Chemical Dependency Management Information System—non-clinical activities, Community Health Representative Information System, Community Health Activity Reporting System, Health Education Resource Management System, and Nutrition and Dietetic's Program Activities Reporting System);

(3.) Deletion of the requirement for fluoridator maintenance and repair reports;

(4.) Deletion of the Generic Activities Reporting System as a separate information system since it is just a software package for processing input documents from systems described elsewhere in the core data set;

(5.) Specification of safeguards to protect patient confidentiality wherever records identify individual patient health care;

(6.) Clarification of reporting requirements for Mental Health and Social Services (i.e., deletion of references to organizational/administrative and human resources/manpower data which are not part of the CDSR);

(7.) Specification of the transition period from use of the Alcoholism Treatment Guidance System to use of the Chemical Dependency Management Information System (CDMIS) and description of CDMIS; and

(8.) Inclusion of reporting requirements for Pharmacy (they were inadvertently omitted from the initial CDSR notice); and

(9.) Inclusion of reporting requirements for Urban Indian Health Programs. The initial notice indicated that IHS planned to include the Urban Indian program core data reporting requirements in the final publication. They were originally omitted since they had already been established in the instruction manual, "Urban Indian Health Programs, Common Reporting Requirements" and were incorporated into contract requirements. They are included now in order that all CDSRs will be found in the same document.

The core data requirements are a subset of the data that is already being collected locally by IHS providers in order to manage effective health service programs. The data are used to define current health status (e.g., prevalance of diabetes); to identify problems requiring attention (e.g., high number of facility visits related to accidents); and to evaluate effectiveness of intervention programs (e.g., reduced infant deaths related to increased prenatal care). The core data set is needed for the following purposes:

Quality assurance;
Epidemiology;
Problem identification;
Identification of population in need;
Resource management/allocation;
Budget support and justification;
Facilities and program planning; and
National billing.

Specifically, the elements of the core data set are derived from those elements already embodied within the following IHS information systems:

Patient Registration System
Ambulatory Patient Care (APC) System
Direct Inpatient Care System
Contract Health Services Inpatient System
Contract Health Services Outpatient System
Dental Reporting System
Pharmacy System
Environmental Health Activity Reporting and Facility Data System
Mental Health and Social Services Reporting System
Alcoholism Treatment Guidance System (ATGS)/Chemical Dependency Management Information System (CDMIS)
Community Health Representative Information System (CHRIS)
Community Health Activity Reporting System
Health Education Resource Management System (HERMS)
Nutrition and Dietetic's Program Activities Reporting System
Clinical Laboratory Workload Reporting System
Urban Indian Health Common Reporting
Fluoridation Reporting Data System

Each of the above systems has its own manual. This notice consolidates and summarizes the data submission formats, edits and schedules from these existing information systems. The core data set reduces the total number of data elements required from the IHS health care providers and the frequency of reporting, for certain elements, has been reduced from monthly to quarterly. Moreover, for activities-type reporting, data need only be reported for a sample of the services provided.

The IHS wants to use the social security number (SSN) as the unique

patient identifier in the IHS National data base. Patients may voluntarily disclose their SSN to health care providers after being informed of: (1) The purposes of collecting the SSN (for uniquely identifying patient records, reducing duplicative counting of cases of a disease, improving patient and health program management, and third party billing); (2) refusal will not result in denial of services; and (3) the provider must submit the SSN to IHS. If the health care provider is unable to obtain the SSN, then there is no longer a requirement, as indicated in the initial CDSR notice, that it submit a 9-digit substitute SSN for the patient. However, it is still required that the chronological health record number (HRN) be submitted for every patient.

There are some data that need to be reported by IHS providers, contractors, and grantees to IHS headquarters in order to participate in special funds established through federal legislation or Congressional appropriations language. There is no mandate that providers, contractors, or grantees submit such data, but they need to do so to be eligible to receive the funds. Examples of such special programs are the Contract Health Services Catastrophic Health Emergency Fund and Deferred Services.

Information collected in accordance with the core data set requirements, which identifies individual patients provided health care, is included in the IHS system of records titled: 09–17–0001, Health and Medical Records Systems, HHS/IHS/OHP (**Federal Register**, November 22, 1988, pages 47348–47353). These records are to be afforded safeguard protections as required by the Privacy Act of 1974 (5 U.S.C. 552a). These safeguards are described in general terms in the system of records notice for system 09–17–0001. In addition, information supplied by staff of health care facilities established to provide alcohol or drug abuse treatment are to be protected under the safeguard provisions of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR part 2. These were last published in the **Federal Register**, June 9, 1987, pages 21796–21814.

As required, program reporting requirements will be submitted to OMB for clearance pursuant to the Paperwork Reduction Act. Not all of the program reporting requirements will need to be submitted to OMB for clearance. The following have already received OMB approval and only extensions of their expiration dates will need to be sought.

Contract Health Services Inpatient System
Contract Health Services Outpatient System
Community Health Representative Information System
Urban Indian Health Common Reporting

The following reporting requirements are totally exempt from the OMB approval process because the information collected by them is used to properly treat clinical disorders of patients.

Ambulatory Patient Care System
Direct Inpatient Care System

The remaining program reporting requirements either are not covered or only partially covered by the "clinical" exemption. Therefore, OMB clearance will be sought for the applicable portions, as noted below, of these information systems.

Patient Registration System (portion dealing with third party eligibility status)
Dental Reporting System (portion dealing with non-clinical activities reporting)
Pharmacy System (all)
Environmental Health Activity Reporting and Facility Data System (all)
Mental Health and Social Services Reporting System (all)
Chemical Dependency Management Information System (portion dealing with non-clinical activities reporting)
Community Health Activity Reporting System (all)
Health Education Resource Management System (all)
Nutrition and Dietetic's Program Activities Reporting System (all)
Clinical Laboratory Workload Reporting System (all)
Fluoridation Reporting System (all)

For now, Indian tribes and tribal organizations with contracts or grants under authority of the Indian Self-Determination Act, Public Law 93–638, as amended, will continue to be governed by the data collection and reporting requirements of the contract or grant as well as any applicable laws, regulations, and policies. The extent of any future applicability of the CDSR to Public Law 93–638 contracts, grants, and cooperative agreements will be determined in the final regulations implementing the 1988 amendments to Public Law 93–638. For the convenience of those reviewing the notice of proposed rulemaking (NPRM) for Public Law 93–638, the CDSR will be reprinted in the same **Federal Register** issue in which the Public Law 93–638 NPRM appears.

As long as their own data collection and reporting system provides for the timely submission of accurate and complete data meeting the core data set requirements, the IHS contractors and grantees will not be required to use the collection and reporting system used by IHS. The contractor/grantee data system must meet the requirements of the Security Act of 1987, Public Law 100–275, which are also applicable to the IHS directly operated programs. The IHS will provide technical assistance to tribal contractors and grantees to convert their data into the formats and appropriate transmission media required for IHS data collection and reporting.

All data will, unless otherwise agreed upon, be sent to the Division of Data Processing Services (DDPS) in Albuquerque through the appropriate Area Office. Each IHS Area will establish its own procedures for reporting data and will monitor compliance with reporting requirements consistent with applicable laws, regulations, policies, and grant and contract instruments. Contractors and grantees are responsible for correcting problems regarding incomplete and inaccurate data.

Contractors and grantees may use IHS forms or collect the required data in any manner consistent with their operations. The submission of these data must meet the format and data requirements of the IHS information systems.

Core Data Set Requirements for the Following IHS Information Systems

A. Patient Registration System

1. Reporting Requirements

a. Data on new patients, or changes to previously registered patients, is submitted at least quarterly through the appropriate Area Office to the Division of Data Processing Services (DDPS) in Albuquerque. Data must be submitted monthly for central billing purposes.

b. Data must be received by the DDPS by the 1st of the month to ensure it being included in the next month's registration reports.

c. The IHS maintains a complete registration data base for each Area on the IHS central computer at DDPS. The types of activity that are reported include:

(1) Registration of new patients.

(2) Changes in any of the required registration fields (i.e. name, residence) for a patient.

(3) Deletion of an entire patient record. (This would only be done when the patient is registered in error, or is registered twice at the same facility

under two different health record numbers).

(4) Delete and merge to another health record number. This is done when a patient is registered twice at two different facilities, and you wish to merge the two records together by deleting one and merging the data to the second number indicated.

Normally the last two activities will only be performed by the registration data base administrator at the Area Office.

2. Record Formats

New patient data, or modifications to patient data, are submitted in a 310 character record as shown in Figures A–1 through A–3. Generally data from different facilities will be given different batch numbers to facilitate error correction, since all errors are listed by batch number, but this is not required.

Transactions to delete a patient record entirely, or delete a patient and merge the data into another health record number, require a different format, as shown in Figures A–4 and A–5. For these transactions, a separate batch header is submitted followed by any number of delete/merge transactions. The patient ID number used for these transactions is not the normal health record number, but the unique patient ID used in the centralized registration system. This number consists of three alpha codes indicating the Area, SU and facility followed by six numerics.

The delete/merge transactions must have a different batch number than other transactions, and the individual delete/merge transactions must immediately follow the delete/merge header. However, regular batches and delete/merge batches can be combined on the same tape.

Samples of the IHS patient registration forms are included in Appendix A.

3. Transmission Media

Registration records should be sent by the Area to DDPS on nine track, unlabeled EBCDIC tapes, at 1600 or 6250 bits per inch (BPI). Records should be blocked at 10 records per block. The Area Office and the contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. RPMS Facility Registration System

An ANSI MUMPS facility registration system is available to any covered contractor that wishes to implement it. This system provides the capability of generating the transactions described above automatically, and creating a tape cartridge (or transaction file for transmission by telecommunications) to be sent to DDPS for all new and/or modified patients.

REGISTRATION FORMAT NEW AND/OR MODIFIED TRANSACTIONS

Position	Field	Edits	Required fields
1–4	BATCH NUMBER	Numeric, Right Justified	
5–10	FACILITY CODE	Area-SU-Facility Code. Must be in IHS Facility Table	X
	5–6 Area Code		
	7–8 Service Unit Code		
	9–10 Facility Code		
11–16	HEALTH RECORD NUMBER	Numeric, Right Justified	X
17–58	PATIENT NAME	See Note 1. Last and First Name. Data must be left justified	X
	17–36 LAST		
	37–47 FIRST		
	48–58 MIDDLE		
59–60	CLASSIFICATION CODE	Numeric, Right Justified. Codes must be in range 01–20	
61–67	DATE OF BIRTH	Must be less than current date. Month not greater than 12, day not greater than 31.	X
	61–62 MONTH		
	63–64 DAY		
	65–67 Year (Last three digits)		
68	SEX	M or 1 for Male; F or 2 for Female	X
69–77	SOCIAL SECURITY NUMBER	Numeric, Right Justified	X
78–80	TRIBE OF MEMBERSHIP CODE	Numeric, right justified. Must be valid code in IHS Tribe Table	X
81	BLOOD QUANTUM	Numeric	X
82–113	FATHER'S NAME	See Note 1	
	82–101 LAST		
	102–112 FIRST		
	113 MIDDLE INITIAL		
114–120	COMMUNITY OF RESIDENCE	Community-County-State Code, must be in IHS Community Table	X
	114–116 COMMUNITY CODE		
	117–118 COUNTY CODE		
	119–120 STATE CODE		
121–176	MAILING ADDRESSES		
	121–150 STREET/BOX NUMBER	Alpha-Numeric. If submitted, town and state also required	
	151–165 TOWN	Alphabetic, left justified. If submitted, state also required	
	166–167 STATE	Alphabetic. Required if town submitted	
	168–176 ZIP	Numeric, right justified	
177–208	MOTHER'S NAME	See Note 1	
209–214	DATE OF DEATH (MM/DD/YY)	Same Edit as Date of Birth	X*
215–235	MEDICARE A	If central billing, all fields required.	
	215 ELIGIBLE	Y or N (N will delete an authorization previously submitted)	X
	216–224 ENROLLMENT NUMBER	Numeric, all digits required	
	225–229 ENROLLMENT SUFFIX	Alphanumeric, left justified. Must be valid code in Medicare suffix table	
	230–235 DATE OF ELIGIBILITY (MD/DD/YY)	Month and Year Required. Standard Date Edit	
236–256	MEDICARE B	Same as Medicare A	X
257–277	MEDICARE AB	Same as Medicare A	X
278–298	MEDICAID	If central billing, all fields required	
	278 ELIGIBLE	Y or N (N will delete an authorization previously submitted)	X
	279–287 ELIGIBILITY NUMBER	No Edit	
	288–292 SUFFIX	No Edit	

REGISTRATION FORMAT NEW AND/OR MODIFIED TRANSACTIONS—Continued

Position	Field	Edits	Required fields
	293-298 DATE OF ELIGIBILITY (MM/DD/YY)	Month and Year Required. Standard Date Edit	
299	VETERAN (VA) ELIGIBLE	Y, N or Blank	X
300	BLUE CROSS	Y, N or Blank	
301	OTHER INSURANCE	Y, N or Blank	X
302	CHS ELIGIBILITY	Y, N or Blank	
303	PATIENT ASSIGNMENT/RELEASE SIGNATURE ON FILE.	Y, N or Blank. Required to initiate billing Medicare	
304	ADD/MODIFY CODE	1—New Patient 2—Modification	
305–310	RELEASE DATE (MM/DD/YY)	Standard Date Edit. Required for billing	

Note 1: ALL NAME FIELDS MUST BE ALPHABETIC WITH THE FOLLOWING SPECIAL CHARACTERS ALLOWED:
- ONE SET OF LEFT AND RIGHT PARENTHESES IMBEDDED IN NAME.
- ONE OCCURRENCE OF AN APOSTROPHE.
- TWO OCCURRENCES OF A PERIOD.
- FIVE OCCURRENCES OF A DASH, OR HYPHEN.
- NO LOWER CASE.

*As available.

REGISTRATION FORMAT DELETE/MERGE TRANSACTIONS

[Header Record]

Position	Field	Description	Required
1–3	IDENTIFIER	THREE VERTICAL BARS (HEX "4F"CHARACTERS)	X
4–5	AREA CODE	STANDARD AREA CODE OF THE REGISTRATION DATA BASE.	X
6–11	AREA/SU/FAC CODE	AREA, SERVICE UNIT, FACILITY CODE OF THE SUBMITTING FACILITY.	X
12–17	AREA/SU/FAC OF HEALTH REC NO	CODE PREFIX FOR HEALTH RECORD NUMBERS BEING USED. NORMALLY DUPLICATE OF POSITIONS 6–11.	X
18	NOT USED		
19–22	BATCH NUMBER	NUMERIC, RIGHT JUSTIFIED	X
23–25	NO FORMS	NUMBER OF TRANSACTIONS IN THE BATCH	X
26–31	DATE	DATE SUBMITTED (YYMMDD)	X
32–34	INITIALS OF REQUESTOR	OPTIONAL	
35–60	COMMENTS	OPTIONAL—FOR LOCAL USE	
61–80	NOT USED		

REGISTRATION FORMAT DELETE/MERGE TRANSACTIONS

[Transaction Record]

Position	Field	Description	Required
1	IDENTIFIER	A "?" IN POSITION 1	X
2–4	INITIALS & SEX	INITIALS (LAST, FIRST) AND SEX OF PATIENT TO BE DELETED.	X
5–13	PATIENT ID	PATIENT ID TO BE DELETED. (THREE ALPHA AND SIX NUMERICS). THIS IS THE CENTRALIZED REGISTRATION UNIQUE ID NUMBER.	X
14–15	TRANSACTION TYPE	"99"	X
16	NOT USED		
17–22	DATE	DATE SUBMITTED (YYMMDD)	X
23–25	ASTERISKS	"* * *"	X
26–34	PATIENT ID	PATIENT ID TO WHICH DATA IS TO BE MERGED	X
35	MOVE DEMOGRAPHIC	FLAG TO INDICATE WHETHER TO MOVE DEMOGRAPHIC DATA FROM DELETED RECORD, OR TO RETAIN DEMOGRAPHIC DATA OF THE RECORD TO WHICH MOVED. "1" INDICATES TO RETAIN DEMOGRAPHIC DATA OF DELETED RECORD, "2" TO RETAIN DATA OF RECEIVING RECORD.	X
36–37	FACILITY	FACILITY CODE SUBMITTING FORM	X
38–67	SUBMITTED BY	NAME OF PERSON SUBMITTING FORM	X

TO DELETE A PATIENT, POSITIONS 1–25 ARE REQUIRED. TO DELETE AND MERGE TO A NEW PATIENT, POSITIONS 1–37 ARE REQUIRED.

B. Ambulatory Patient Care System (APC)

1. Reporting Requirement

a. An Ambulatory Patient Care (APC) record is required for an encounter between a patient and health care provider in an organized clinic within an IHS facility (including covered contractors) where service resulting from the encounter is not part of an inpatient stay. The patient or his/her representative (representative only to pick up prescription) must be physically present at the time of service. Also, a note must be written in the medical record by a licensed, credentialled or other provider qualified by the medical staff or facility administrator.

b. Part 4, chapter 3, section 1 of the Indian Health Manual, provides

complete definitions and procedures for reporting into the APC system. The definition of an APC visit given in 1a above is somewhat different and supersedes the definition in the IHS Manual. The IHS Manual will be changed to reflect the new definition.

c. Each Area will define procedures for collecting APC data and creating automated records in the format described in the next section. Options include:

(1) Key-entry of forms at the Area.

(2) Key-entry of forms by a contractor.

(3) Key-entry at the local facility with an RPMS ANSI MUMPS data entry system.

d. Records will be consolidated at the Area level and forwarded at least quarterly to the Division of Data Processing Services (DDPS) at Albuquerque by the 15th of the month. Data must be submitted monthly for central billing purposes.

2. Record Formats

a. The APC record contains individual patient encounter information. Each record is 200 characters in length.

b. The format of the APC record is shown in Figures B–1 through B–3.

c. A sample of the IHS APC form is included in Appendix A.

3. Transmission Media

a. APC records for each Area are generally mailed to DDPS on nine track unlabeled, unblocked EBCDIC tape. The Area Office and the contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. RPMS APC Data Entry System

a. There is available an RPMS ANSI MUMPS APC data entry program which allows for records to be keyed locally, transmitted to the Area, and fowarded from the Area to DDPS by telecommunications.

5. Community Health Aide Program

a. An Ambulatory Patient Care (APC) or equivalent record is required for an encounter between a community health aide and a patient.

b. The format of the required record is shown in Figures B–1 through B–3. A sample of the IHS APC form is included in Appendix A.

c. The Alaska Area Office and the contractor will need to determine how the required data will be collected and transmitted to the Area.

DIRECT OUTPATIENT SYSTEM RECORD [1]

Position	Field	Required
1–2	Record Code. Always "15".	X
3–4	Area Code	X
5–6	Service Unit Code	X
7–8	Service Location Code (Facility Code).	X
9–14	Date of Service (MMDDYY).	X
15	Day of Week (Sunday=1, Saturday=7)	
16–21	Patient Health Record Number.	X
22–30	Social Security Number	X
31–36	Date of Birth (MMDDYY)	X
37	Sex	X
38–40	Tribe of Membership Code.	X
41–43	Optional Code (Area options)	
44–50	Community of Residence	
	44–46 Community Code.	X
	47–48 County Code	X
	49–50 State Code	X
51	Time of Day Code; "1" 8AM-Noon; "2" Noon-5PM; "3" 5PM-10PM; "4" 10PM-8AM	
52–53	Type of Clinic (IHS Table)	
54–61	Service Rendered by (Discipline Code)	
	54–55 Primary Provider Discipline.	X
	56–57 Other Provider Discipline	
	58–59 Other Provider Discipline.	
	60–61 Other Provider Discipline.	
62–71	Immunizations Given	X
	62 1 for Tetanus Toxin	
	63 2 for DT	
	64 3 for DPT	
	65 4 for Polio	
	66 5 for Measles	
	67 6 for Rubella	
	68 7 for Small Pox	
	69 8 for Mumps	
	70 9 for Influenza	
	71 0 for Other	
72	All Immunizations Current (1 yes; 2 no).	X
73	Immunization Register Update	
74	Skin Test Result "1" PPD 0–4M; "2" PPD 5–9MM; "3" PPD 10–19M; "4" PPD 20+MM; "5" TINE NEG.; "6" TINE POS	
75	Purpose of Skin Test "1" Routine; "2" Contact; "3" Suspect; "4" School	
76	INH Prophylaxis "1" 1 Year Completed; "2" Start "3" Continue; "4" Discontinue	
77–78	Next TB Appointment in months	
79–82	TB Diagnosis	
	79 "1" 1st visit, "2" revisit	
	80–82 Three digit APC code (005–012)	

DIRECT OUTPATIENT SYSTEM RECORD [1]—Continued

Position	Field	Required
83–93	Maternal Health and Family Planning	
	83 Marital Status (1 Married; 2 Not Married)	
	84–85 Gravida	
	86–87 Number of Living Children	
	88 Trimester of 1st Prenatal Visit	
	89 "1" 1st visit for prenatal care "2" revisit for prenatal care	
94–96	Not Used	
97–102	IHS Unit No at Parent Facility	
103–107	Accidents (required for 1st visits of APC codes 700–792).	
	103–104 Cause of Accident (01–19).	X [2]
	105–106 Place (01–12)	X [2]
	107 Alcohol related (1 yes; 2 no)	X [2]
108–113	Area optional code	
114–117	APC Codes for Injury	
	114 "1" 1st visit; "2" revisit	
	115–117 APC Code	X [2]
118–121	APC Codes for Other Problems/Clinical Imp	
	118 "1" 1st visit, "2" revisit	
	119–121 APC code	X [2]
122–132	Diagnostic Services Requested	
	122 "0" or blank for none	
	123 "1" for Urinalysis	
	124 "2" for Hematology	
	125 "3" for Chemistry	
	126 "4" for Bacteriology	
	127 "5" for Serology	
	128 "6" for Pap	
	129 "7" for ECG/EKG	
	130 "8" for Other	
	131 "1" for X-Ray-Chest	
	132 "2" for Other X-ray	
133	Minor Surgical Procedures ("1" if yes).	X [2]
134	Disposition Code	
	"1" Return by appointment	
	"2" Return PRN	
	"3" Admit to IHS Hospital	
	"4" Admit to non-IHS Hospital	
	"5" Refer for OP Consultation—IHS	
	"6" Refer for OP Consultation—non-IHS	
	"7" Did not Answer	
135–139	CPT4/HCPCX Code 1	X [2]
140–144	CPT4/HCPCX Code 2	X [2]
145–149	CPT4/HCPCX Code 3	X [2]
150–154	CPT4/HCPCX Code 4	X [2]
155–159	CPT4/HCPCX Code 5	X [2]
160–166	Unused	
167–176	Specific provider codes	
177–181	ICD–9–CM Code 1	X [2]
182–186	ICD–9–CM Code 2	X [2]
187	Unused	

DIRECT OUTPATIENT SYSTEM RECORD [1]—Continued

Position	Field	Required
188–191	Surgical Procedure (ICD–9–CM Code).	X [2]
192–200	Unused, except for some Area-specific fields	

[1] Not all patient identification data elements will need to be reported on every record in a fully integrated information system.
[2] If appropriate.

C. Direct Inpatient Care System (INP)

1. Reporting Requirement

a. A direct Inpatient Clinical Brief is required for any person who is admitted to an Indian Health Service facility or a facility operated by a covered contractor.

b. Part 4, chapter 3, section 2 of the Indian Health Manual provides complete definition and procedures for reporting into the Direct Inpatient System.

c. Each Area will define procedures for collecting Inpatient data and creating automated records on the format described in the next section. Options include:

(1) Key-entry of forms at the Area.

(2) Key-entry of forms by a contractor.

(3) Key-entry at the local facility with an RPMS ANSI MUMPS data entry system.

d. Records will be consolidated at the Area level and forwarded at least quarterly to the Division of Data Processing Services (DDPS) at Albuquerque by the 15th of the month. Data must be submitted monthly for central billing purposes.

2. Record Formats

a. The record format for the Direct Inpatient Clinical Record Brief, is shown in Figures C–1 through C–3. Each record is 160 characters in length.

b. A sample of the IHS Clinical Record Brief is included in appendix A.

3. Transmission Media

a. Clinical Record Brief for each Area are generally mailed to DDPS on nine track unlabeled, unblocked EBCDIC tape. The Area Office and the tribal contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. RPMS Data entry system

a. There is an RPMS ANSI MUMPS facility based Direct Inpatient data entry program which allows for records to be keyed locally, transmitted to the Area, and forwarded from the Area to DDPS by telecommunications.

DIRECT INPATIENT CLINICAL RECORD BRIEF [1]

Position	Field	Required
1–2	Record Code. Always "18".	X
3–8	Patient Health Record Number.	X
9–17	Social Security Number	X
18–23	Date of Birth (MMDDYY)	X
24	Sex	X
25–27	Tribe of Membership Code.	X
28–30	Optional Code (Area Options)	
31–37	Community of Residence	
	31–33 Community Code.	X
	34–35 County Code	X
	36–37 State Code	X
38–39	Classification Code	
40–41	Area Code	X
42–43	Service Unit Code	X
44–45	Facility Code	X
46	Admission Code	X
47–48	Clinical Service Admitted to Code	
49–54	Admission Date (MMDDYY).	X
55–60	Disposition Date (MMDDYY).	X
61–63	Number Hospital Days	
64–67	Third Party Payers	
	64 Medicaid	
	65 Medicare	
	66 VA	
	67 Other	
68	Unused	
69–73	ICD Code 1 (Principal Diagnosis).	X
74	Hospital Acquired "1"	X [2]
75–79	ICD Code 2	X [2]
80	Hospital Acquired "1"	X [2]
81–85	ICD Code 3	X [2]
86	Hospital Acquired "1"	X [2]
87–91	ICD Code 4	X [2]
92	Hospital Acquired "1"	X [2]
93–97	ICD Code 5	X [2]
98	Hospital Acquired "1"	X [2]
99–103	ICD Code 6	X [2]
104	Hospital Acquired "1"	X [2]
105–108	1st ICD Operation Code	X [2]
109	Diagnosis Number (Appropriate Code)	
110	Infection "1" if checked	X [2]
111–114	Operating Physician Code	
115–118	2nd ICD Operation Code	X [2]
119	Diagnosis Number (Appropriate Code)	
120	Infection "1" if checked	X [2]
121–124	3rd ICD Operation Code	X [2]
125	Diagnosis Number (Appropriate Code)	
126	Infection "1" if checked	X [2]
127	Disposition Code (1–7)	X
128–133	Facility Transferred to Code	
134–135	Clinical Service Discharged from	
136–137	Number of Consultations	
138–141	Accident Code (No Leading "E") (E800–E999).	X [2]
142–143	Accident Place Code	X [2]
144–148	Cause of Death (ICD Code).	X [2]
149–152	Attending Physician Code	
153	Nurse-Midwifery Code	
154–160	Unused	
161–170	Operating Physician EIN	X [2]

DIRECT INPATIENT CLINICAL RECORD BRIEF [1]—Continued

Position	Field	Required
171–180	Attending Physician EIN	X

[1] Not all patient identification data elements will need to be reported on every record in a fully integrated information system.
[2] If appropriate.

D. Contract Health Services (CHS) Inpatient System (CHI)

1. Reporting Requirement

a. A Contract Health Service Purchase/Delivery Order for Hospital Services Rendered (HRSA–43) is required for all hospital inpatient care provided to Indian and Alaska Native patients in contract community facilities. This includes CHS administered by covered contractors.

b. Part 4, chapter 3, section 3 of the Indian Health Service Manual provides complete definition and procedures for reporting into the Contract Inpatient System.

c. Each Area will define procedures for collecting Contract Inpatient data and creating automated records in the format described in the next section. Options include:

(1) Key-entry forms at the Area.

(2) Key-entry forms by a contractor.

(3) Key-entry at the local facility with an RPMS ANSI MUMPS data entry system.

d. Records will be consolidated at the Area level and forwarded at least quarterly to the Division of Data Processing Services (DDPS) by the 5th of the month.

2. Record Formats

a. There is only one record format for the Contract Health Service Purchase/Delivery Order for Hospital Services Rendered as shown in Figures D1 and D2. Each record is 185 characters in length.

b. A sample of the IHS Contract Health Service Purchase/Delivery Order for Hospital Services Rendered is included in appendix A. Since this is a government purchase order form, it is recommended that a similar form in terms of data elements be developed for use by tribal contractors.

3. Transmission Media

a. Contract Inpatient Authorizations are generally mailed to DDPS on nine track unlabeled, unblocked EBCDIC tape. The Area Office and the contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. RPMS Data Entry System

a. There is an RPMS ANSI MUMPS Contract Inpatient data entry program which allows for records to be keyed locally, transmitted to the Area and forwarded from the Area to DDPS by telecommunications.

5. Fiscal Intermediary

a. IHS has contracted with a Fiscal Intermediary to perform the management of that portion of the CHS program administered by the IHS.

CONTRACT HEALTH SERVICE PURCHASE/DELIVERY ORDER FOR HOSPITAL SERVICES RENDERED *

[HRSA-43]

Position	Field	Required
1-2	Record Code. Always "19"	X
3-9	Authorization Number	X
10-15	Patient Health Record Number.	X
16-24	Social Security Number	X
25-30	Date of Birth (MMDDYY)	X
31	Sex (1=Male, 2=Female)	X
32-34	Tribe Code	X
35-37	Optional Code (Area Options)	
38-44	Community of Residence	
	38-40 Community Code	X
	41-42 County Code	X
	43-44 State Code	X
45-50	Authorizing Facility (Area-Service Unit-Facility).	X
51-52	Provider Type	X
53-62	Provider Code (EIN)	X
63-68	Admission Date (MMDDYY)	X
69-74	Discharge Date (MMDDYY)	X
75-77	Total Hospital Days	
78	Disposition	X
79-83	ICD Code 1 (Principal Diagnosis).	X
84-88	ICD Code 2	X [1]
89-93	ICD Code 3	X [1]
94-98	ICD Code 4	X [1]
99-103	ICD Code 5	X [1]
104-107.	ICD Operation Code 1	X [1]
108-111.	Unused	
112-115.	ICD Operation Code 2	X [1]
116-119.	ICD Operation Code 3	X [1]
120-124.	ICD Newborn Diagnosis	
125	Newborn Death Indicator	
126-129.	Attending Physician Code	
130-133.	ICD External Cause or Injury	X [1]
134-135.	Place of Injury	X [1]
136-143.	Charges—to IHS *only* $ and cents.	X
144	Full/Part Pay (1=Full, 2=Part).	X
145-175.	Unused	
176-185.	Attending Physician EIN	X

* Not all patient identification data elements will need to be reported on every record in a fully integrated information system.
[1] If appropriate.

E. Contract Health Services (CHS) Outpatient System (CHO)

1. Reporting Requirement

a. A Purchase Order for Contract Health Service Other Than Hospital Inpatient or Dental (HSA-64) is required for all outpatient services to Indian and Alaska Native patients in contract community facilities. This includes CHS administered by covered contractors.

b. Part 4, chapter 3, section 3 of the Indian Health Service Manual provides complete definition and procedures for reporting into the Contract Outpatient System.

c. Each Area will define procedures for collecting Contracting Outpatient data and creating automated records in the format described in the next section. Options include:

(1) Key-entry forms at the Area.

(2) Key-entry forms by a contractor.

(3) Key-entry at the local facility with an RPMS ANSI MUMPS data entry system.

d. Records will be consolidated at the Area level and forwarded to the Division of Data Processing Services (DDPS) at least quarterly by the 5th of the month.

2. Record Formats

a. There is only one record format for the Purchase Order for Contract Health Service Other Than Hospital Inpatient or Dental as shown in Figures E1 and E2. Each record is 110 characters in length.

b. A sample of the Purchase Order for Contract Health Service Other Than Hospital Inpatient or Dental form is included in Appendix A. Since this is a government purchase order form, it is recommended that a similar form in terms of data elements be developed for use by tribal contractors.

3. Transmission Media

a. Contract Outpatient Authorizations are generally mailed to DDPS on nine track unlabeled, unblocked EBCDIC tapes. The Area Office and the contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. RPMS Data Entry System

a. There is an RPMS ANSI MUMPS Contract Outpatient data entry program which allows for records to be keyed locally, transmitted to the Area and forwarded from the Area to DDPS by telecommunications.

5. Fiscal Intermediary

a. IHS has contracted with a Fiscal Intermediary to perform the management of that portion of the CHS program administered by the IHS.

PURCHASE ORDER FOR CONTRACT HEALTH SERVICE OTHER THAN HOSPITAL INPATIENT OR DENTAL *

Position	Field	Required
1-2	Record Code. Always "20"	X
3-9	Authorization Number	X
10-15	Patient Health Record Number.	X
16-24	Social Security Number	X
25-30	Date of Birth (MMDDYY)	X
31	Sex (1=Male, 2=Female)	X
32-34	Tribe Code	X
35-37	Optional Code (Area Options)	
38-44	Community of Residence	
	38-40 Community Code	X
	41-42 County Code	X
	43-44 State Code	X
45-50	Authorizing Facility (Area-Service Unit Facility).	X
51-52	Provider Type	X
53-62	Provider Code (EIN/SSN)	X
63-69	HSA-43 Authorization Number	
70-75	Date of Service (MMDDYY)	X
76	Unused	
77-79	Outpatient Diagnostic Recode 1.	X [1]
80	1st or Revisit Code	
81-83	Outpatient Diagnostic Recode 2.	X [1]
84	1st or Revisit Code	
85-86	Number of Visits	X [1]
87-92	Charges	X
93-94	Immunization 1	X [1]
95-96	Immunization 2	X [1]
97-98	Immunization 3	X [1]
99-100	Immunization 4	X [1]
101-102.	Immunization 5	X [1]
103-105.	Maternal Health	
	103-104 Gravida	
	105 1st Trimester	
106	Full/Part Pay (1=Full, 2=Part).	X
107-110.	Surgical Procedure (ICD-9-CM Code).	X [1]
111-115.	CPT4/HCPCX Procedure Code 1.	X [1]
116-120.	CPT4/HCPCX Procedure Code 2.	X [1]
121-125.	CPT4/HCPCX Procedure Code 3.	X [1]
126-130.	CPT4/HCPCX Procedure Code 4.	X [1]
131-135.	CPT4/HCPCX Procedure Code 5.	X [1]
136-150.	Unused	
151-155.	ICD-9-CM Code 1	X [1]
156-160.	ICD-9-CM Code 2	X [1]

* Not all patient identification data elements will need to be reported on every record in a fully integrated information system.
[1] If appropriate.

F. Dental Services and Needs Reporting System

1. Reporting Requirement:

a. A description of dental services provided will be submitted for each patient visit to either a (1) direct care facility or a (2) contract provider. In addition, specified data will be submitted on a sample basis from oral exams to provide epidemiologic and

needs data for program monitoring or evaluation and for determining resource requirements. Tribal programs will be included in such a sample with no greater frequency than once every three years.

b. Dental treatment provided, as well as a recording of number of patient visits, persons treated, and patients receiving all planned treatment, will be identified using the standard nomenclature of the American Dental Association (see list of codes marked F–1) and include the number of units of each service provided, and for contract dentist, the fee for each service. These codes are revised periodically by the ADA. Updated lists of codes will be provided, as available, to both IHS and Tribal programs.

c. Non-clinical dental health services not reported in the HERMS, CHRIS, or other components of the IHS Generic Activities Reporting System (GARS) should be reported using the data elements and the data record format shown in Figure F–4. This system serves as a supplement for the IHS Dental Data Reporting System to specify a range of public health services which cannot be included in the patient record system. Headquarters requirements can be met with a sampling procedure that uses one full week of activities per month in accordance with the sample reporting week schedule to be specified by IHS Headquarters. There is an RPMS ANSI MUMPS GARS data entry program which allows for records to be submitted to Area for compilation and forwarding from Area to DDPS. The dental non-clinical activities database can be maintained locally or at regional sites at the discretion of program management. Local programs are responsible to provide the Area Dental Office with up-to-date dental activity records after the close of each month. The timing and method of data submission may vary per negotiated arrangements in each Area; however, each Area Office is responsible to transmit all available activity records which have not been previously submitted to the DDPS in Albuquerque as a merged data extract on tape or via telecommunication within 10 working days after the close of each quarter of the Fiscal Year.

d. The procedures for collecting the required data for centralized processing by the IHS Division of Data Processing Services (DDPS) will be defined by each area program. The options available for key-entering the data into a computer are:

1. Weekly submission to a key-entry contractor (IHS or Tribal source) who transmits the data to the IHS.

2. In-house local key entry into RPMS database with submission of extracted data to area office by the end of each month.

3. Local key-entry into non-RPMS database with the submission of formatted records to the DDPS by the end of the month.

e. Oral exam records data will be collected periodically among an adequate number of dental patients of all ages for processing by the IHS to monitor the oral health status and treatment needs of the population being served. The protocol for selecting/sampling of patients and completing examination records is described in Section III of the Oral Health Program Guide (OHPG) published by the IHS. Where variation is noted, the latest version of the OHPG takes precedence over the following instructions. The required data from exams will include:

1. Tooth status: sound, decayed, recurrent decay, missing, filled, filled and decayed, sealed, sealed and decayed, unrestorable and needs extraction (XC, XP, XO, XT (trauma), X (pros.), fractured, replaced, crowned (cast restoration).

2. Periodontal status: Using the Community Periodontal Index of Treatment Needs (C.P.I.T.N.) score by specific mouth sextants (UR, tooth #1–5), UA (#6–11), UL (#12–16), LL (#17–21), LA (#22–27), LR (#28–32).

3. Treatment Needs—reported using ADA or other codes in Section III of the OHPG: all teeth needing restoration by number of surfaces involved, extractions, other surgery, full or partial dentures needed per arch and possession of existing dentures, endodontic needs, fixed bridges needed including number of pontics, orthodontic status (limited, comprehensive, treatment in progress, or completed).

f. Options for collecting and submitting exam data include:

1. Submission of required data directly to the IHS in hard copy using standard forms (as shown in Appendix A).

2. Submission of data in automated record format from RPMS or non-RPMS database.

g. Data input forms used by the IHS are included in Appendix A. Except for the Oral Health Status Form, the use of these forms is not required, but is highly recommended for use as part of the patient's record and for data submission. They include: 1.) Patient Service Record (HRSA–42–1); 2.) Record, Clinic and Doctor Identification (HSA–42–2); 3.) Services Provided—Dental Progress Notes (HRSA–42–2); 4.) Purchase Order for and Report of Contract Dental Care (HSA–57) (Since this is a government purchase order form, it is recommended that a similar form be developed for use by tribal contractors. The IHS is testing a simplified form which will combine the HSA–57 and HSA–64. The final version of the combined form will be made available to tribal contractors and may be used by tribes also to develop a similar form.); and 5.) Oral Health Status Form.

2. Format of Data Processing Records:

a. The required automated record format for processing dental services data is shown in Figures F–1 through F–3.

b. The automated record for non-clinical dental health services/activities is shown in Figure F–4.

c. The automated record for processing oral examination data is shown in Figure F–5.

d. Transmission to DDPS

1. Data will be transmitted to DDPS on a periodic basis as defined by area policy on an unlabeled EBCDIC tape, blocked 20 records per block.

2. The cut-off date at DDPS for inclusion in monthly reports is the 5th working day of each month.

3. The Area Office and the contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. Oral health status data will be transmitted and processed separately from dental services data.

3. The data elements for dental epidemiology and services are as follows:

Data element	Required
Health Status:	
Demographics*	X
Health Needs Assessment	X
Dental caries (decay) index	X
Prosthodontic status	X
Periodontal status	X
Orthodontic status	X
Oral pathology status	X
Treatment Required	X
Services Provided:	
Patient demographic information*	X
Mode of delivery (direct/contract)	X
Date of Visit	X
Provider/Location	X
Cost of Visit (contract only)	X
Services Provided	
ADA procedure code	X
Units	X
Cost	X

* Not all patient identification data elements will need to be reported on every record in a fully integrated information system.

Record Layout for Processing Dental Services Data (Used for Both Direct and Contract Services)

[Input Record Format for Processing Dental Services Data by the IHS Data Center at Albuquerque]

Field position and size	Field name, record identification and (data type)
1	Type of Patient (I-Indian; O-Non-Indian).
2	Type of program (D-Direct; K-Contract).
Provider/ Location of encounter	
3–4	Area Code (std. 2-digit numeric).
5–16	Dentist ID (Normally 9-digit numeric SSN, either with hypens or without. If no hyphens, must be left justified).
17–18	Service Unit Code (std. 2-digit numeric).
19–20	Facility Code (std. 2-digit numeric).
Date of Visit	
21–22	Year (numeric).
23–24	Month (numeric).
25–26	Day (numeric).
Patient Identification	
27–29	Age in years. This field or date of birth field required. (3-digit numeric).
Birthdate/Sex	
30–31	Year (numeric).
32–33	Month (numeric).
34–35	Day (numeric).
36	Sex (M-Male; F-Female).
Social Security Number	
37–39	Blank.
40–48	Social Security Number.
Address	
49–53	Zip Code-Optional (numeric).
54–57	Zip Extension-Optional (numeric).
Third Party Coverage	
58	Medicaid (Y or blank) Optional.

Record Layout for Processing Dental Services Data (Used for Both Direct and Contract Services)—Continued

[Input Record Format for Processing Dental Services Data by the IHS Data Center at Albuquerque]

Field position and size	Field name, record identification and (data type)
59	Commerce (Y or blank) Optional.
60	Private (Y or blank) Optional.
Total Charge for Visit	
61–65	Dollar amount up to 5-digits (numeric).
66–67	Amount in cents (numeric).
Service #1	
68–71	ADA Procedure Code (from standard set of codes).
72–73	Units (numeric, 1 to 99).
74–78	Fee (dollar amount only, cents not allowed).
Service #2	
79–82	ADA Procedure Code.
83–84	Units.
85–89	Fee.
Service #3	
90–93	ADA Procedure Code.
94–95	Units.
96–100	Fee.
Service #4	
101–104	ADA Procedure Code.
105–106	Units.
107–111	Fee.
Service #5	
112–115	ADA Procedure Code.
116–117	Units.
118–122	Fee.
Service #6	
123–126	ADA Procedure Code.
127–128	Units.
129–133	Fee.
Service #7	
134–137	ADA Procedure Code.
138–139	Units.
140–144	Fee.

Record Layout for Processing Dental Services Data (Used for Both Direct and Contract Services)—Continued

[Input Record Format for Processing Dental Services Data by the IHS Data Center at Albuquerque]

Field position and size	Field name, record identification and (data type)
Service #8	
145–148	ADA Procedure Code.
149–150	Units.
151–155	Fee.
Service #9	
156–159	ADA Procedure Code.
160–161	Units.
162–166	Fee.
Service #10	
167–170	ADA Procedure Code.
171–172	Units.
173–177	Fee.
Service #11	
178–181	ADA Procedure Code.
182–183	Units.
184–188	Fee.
Service #12	
189–192	ADA Procedure Code.
193–194	Units.
195–199	Fee.
Service #13	
200–203	ADA Procedure Code.
204–205	Units.
206–210	Fee.
Service #14	
211–214	ADA Procedure Code.
215–216	Units.
217–221	Fee.
Service #15	
222–225	ADA Procedure Code.
226–227	Units.
228–232	Fee.

If more than 15 ADA procedure codes are associated with a visit date, then a separate (second) input record must be created for processing purposes.

GARS/Dental Non-Clinical Activity Reporting System Data Record Format

Position	Field name	Data type
1–6	REPORTING LOCATION	6-digit Code (from IHS standard table of values).
7–12	DATE OF ACTIVITY	mmddyy.
13–21	PROVIDER ID	9-digit SSN.
22–23	ACTIVITY TYPE	2-digit numeric code from list of accepted values.
24–25	TARGET GROUP	6-digit alpha/numeric code, from list of values, right justified.
26–30	RELATED OBJECTIVE	5-digit alpha code or blank, right justified.
31–33	ACTIVITY TIME	3-digit numeric to represent total minutes (blank accepted).
34–36	TRAVEL TIME	3-digit numeric to represent total minutes (blank accepted).
37–41	ACTIVITY SETTING	3-digit alpha code from list of values or blank.
42–121	NARRATIVE COMMENT	80 character free text entry or blank.

Record Layout for the Oral Health Survey Data

Position	Data field label	Data type specification
1–6	LOCATION CODE	6 NUMERIC (Accepts values from a table).
7–12	EXAM DATE	6 NUMERIC DATE IN FORMAT—mmddyy.
13–18	PATIENT NUMBER	6 NUMERIC RT. JUSTIFY (fill with lead 0's).
19–24	DATE OF BIRTH	6 NUMERIC DATE IN FORMAT—mmddyy.
25	SEX	ALPHA CODE—(m or f).
26	EXAM TYPE	ALPHA CODE—(d g f).
27	USER TYPE	ALPHA CODE—(x r s u).
28	FLUORIDE HISTORY	ALPHA CODE—(x nl y n).
29–33	HEALTH FACTORS	Key x for each factor marked except Tobacco. None, Diabetes, Handicap, Pregnancy, Tobacco (1, 2, or 3), or No info.

RECORD LAYOUT FOR THE ORAL HEALTH SURVEY DATA—Continued

Position	Data field label	Data type specification
34–35	EDENTULISM	Key x for each arch (upper, lower) as marked.
#36–444 and 496–775	TOOTH STATUS DATA	1 or 2-DIGIT A/N CODES IN 1–7 DATA FIELDS FOR EACH OF 28 TEETH and 0–2 A/N CODES FOR 4 ADDITIONAL TEETH (#1, 17, 18, 32) AS FOLLOWS:
36–37	TOOTH #1 TREATMENT DATA	1st A/N 2-DIGIT CODE.
38–39	.....	2nd A/N 2-DIGIT CODE.
40–41	TOOTH #2 mesial (M)	A/N 2-DIGIT CODE (25 possible entries).
42–43	occlusal (O)	A/N 2-DIGIT CODE.
44–45	distal (D)	A/N 2-DIGIT CODE.
46–47	buccal (B)	A/N 2-DIGIT CODE.
48–49	lingual (L)	A/N 2-DIGIT CODE.
50–51	TREATMENT DATA	1st A/N 2-DIGIT CODE (10 possible entries)
52–53	.....	2nd A/N 2-DIGIT CODE
54–67	TOOTH #3 (In same sequence as tooth #2 format).	
68–82	TOOTH #4 (In same sequence as tooth #2 format).	
83–96	TOOTH #5 (In same sequence as tooth #2 format).	
97–110	TOOTH #6 (In same sequence as tooth #2 format).	
111–124	TOOTH #7 (In same sequence as tooth #2 format).	
125–138	TOOTH #8 (In same sequence as tooth #2 format).	
139–152	TOOTH #9 (In same sequence as tooth #2 format).	
153–166	TOOTH #10 (In same sequence as tooth #2 format).	
167–180	TOOTH #11 (In same sequence as tooth #2 format).	
181–194	TOOTH #12 (In same sequence as tooth #2 format).	
195–208	TOOTH #13 (In same sequence as tooth #2 format).	
209–222	TOOTH #14 (In same sequence as tooth #2 format).	
223–236	TOOTH #15 (In same sequence as tooth #2 format).	
237–240	TOOTH #16 (In same sequence as tooth #1 format).	
241–444	Same format as listed above applies to each tooth in the lower arch numbered: #17 through 32.	
445	ORAL TRAUMA Tooth #7	NUMERIC (0–5) OR x PER TOOTH #.
446	ORAL TRAUMA Tooth #8	NUMERIC (0–5) OR x PER TOOTH #.
447	ORAL TRAUMA Tooth #9	NUMERIC (0–5) OR x PER TOOTH #.
448	ORAL TRAUMA Tooth #10	NUMERIC (0–5 OR x) PER TOOTH #.
449	ORAL TRAUMA Tooth #23	NUMERIC (0–5 OR x) PER TOOTH #.
450	ORAL TRAUMA Tooth #24	NUMERIC (0–5 OR x) PER TOOTH #.
451	ORAL TRAUMA Tooth #25	NUMERIC (0–5 OR x) PER TOOTH #.
452	ORAL TRAUMA Tooth #26	NUMERIC (0–5 OR x) PER TOOTH #.
453	FLUOROSIS Group I	NUMERIC (0–4) OR x OR BLANK.
454	FLUOROSIS Group II	NUMERIC (0–4) OR x OR BLANK.
455	CPITN SCORE UR	NUMERIC (0–6) OR X OR BLANK.
456	CPITN SCORE UA	NUMERIC (0–6) OR X OR BLANK.
457	CPITN SCORE UL	NUMERIC (0–6) OR X OR BLANK.
458	CPITN SCORE LR	NUMERIC (0–6) OR X OR BLANK.
459	CPITN SCORE LA	NUMERIC (0–6) OR X OR BLANK.
460	CPITN SCORE LL	NUMERIC (0–6) OR X OR BLANK.
461	LOA SCORE UR	NUMERIC (0, 3–6) OR X OR BLANK.
462	LOA SCORE UA	NUMERIC (0, 3–6) OR X OR BLANK.
463	LOA SCORE UL	NUMERIC (0, 3–6) OR X OR BLANK.
464	LOA SCORE LR	NUMERIC (0, 3–6) OR X OR BLANK.
465	LOA SCORE LA	NUMERIC (0, 3–6) OR X OR BLANK.
466	LOA SCORE LL	NUMERIC (0, 3–6) OR X OR BLANK.
467	PATHOLOGY CODE NONE	BLANK OR LETTER CODE AS MARKED.
468	PATHOLOGY SUP	BLANK OR LETTER CODE AS MARKED.
469	PATHOLOGY BL	BLANK OR LETTER CODE AS MARKED.
470	PATHOLOGY CP	BLANK OR LETTER CODE AS MARKED.
471	PATHOLOGY HV	BLANK OR LETTER CODE AS MARKED.
472	PATHOLOGY TBA	BLANK OR LETTER CODE AS MARKED.
473	PATHOLOGY ST	BLANK OR NUMERIC (1–3) AS CIRCLED.
474	PROS. POSSESSION Upper	BLANK OR ALPHA CODE (N, F or P) IF MARKED.
475	PROS. POSSESSION Lower	BLANK OR ALPHA CODE (N, F or P) IF MARKED.
476	PROS. NEED Upper	BLANK OR A/N CODE IF MARKED (P/F–1, 2, or 3).
477	PROS. NEED Lower	BLANK OR A/N CODE IF MARKED (P/F–1, 2, or 3).
478	ORTHO. STATUS None	BLANK OR X IF MARKED.
479	ORTHO. STATUS Minor	BLANK OR X IF MARKED.
480	ORTHO. STATUS Comp.	BLANK OR D or S AS MARKED.

RECORD LAYOUT FOR THE ORAL HEALTH SURVEY DATA—Continued

Position	Data field label	Data type specification
481	ORTHO. STATUS In tx.	BLANK OR X IF MARKED.
482	ORTHO. STATUS Completed	BLANK OR X IF MARKED.
483–485	SPECIAL USE VARIABLE #1	3 NUMERIC (0–9) OR BLANK.
486–487	SPECIAL USE VARIABLE #2	2 NUMERIC (0–9) OR BLANK.
488–489	SPECIAL USE VARIABLE #3	2 NUMERIC (0–9) OR BLANK.
490	DENTURE QUESTION #1	BLANK OR LETTER CODE (Y N or U).
491	DENTURE QUESTION #2	BLANK OR X AS MARKED IN A CODE BLANK (IHS, TRIBAL, OTHER, or PRIVATE).
492	DENTURE QUESTION #3	BLANK OR a, b, or c AS MARKED.
493	ACCESS QUESTION #1	BLANK OR LETTER CODE (y, n or u) AS MARKED.
494	ACCESS QUESTION #2	BLANK OR NUMERIC (0–60) AS MARKED.
495	ACCESS QUESTION #3	BLANK OR LETTER CODE (y, n or u) AS MARKED.
496–497	TOOTH #4d mesial (M)	A/N 2-DIGIT CODE.
498–499	occlusal (O)	A/N 2-DIGIT CODE.
500–501	distal (D)	A/N 2-DIGIT CODE.
502–503	buccal (B)	A/N 2-DIGIT CODE.
504–505	lingual (L)	A/N 2-DIGIT CODE.
506–507	TREATMENT DATA	1st A/N 2-DIGIT CODE.
508–509		2nd A/N 2-DIGIT CODE.
510–775	TOOTH #5d–20d (in same sequence as tooth #4d format).	

G. Pharmacy System

1. Reporting Requirements

a. *Pharmacy quarterly and cumulative workload report.* This form (HSA–91) is required to be completed by the Chief Pharmacist at each IHS and tribal facility. Raw workload data relating to both inpatient and outpatient pharmacy activities are collected and compiled using this form. Raw data are converted to workload units on this form. These data are entered on the HSA 91 report at the end of each quarter. The report is completed by the 15th day following the end of the quarter at which time it is forwarded to the Area Pharmacy Officer (APO). The APO compiles the Area data and prepares a summary report for submission to the Pharmacy Program at Headquarters within 30 days after the end of the quarter.

The data are used for identifying trends, measuring workload and correlating staffing and space requirements.

b. *Monthly report for narcotics and other controlled substances.* This form (HSA–174) is a record of all Schedule II Controlled Substance usage. It contains a record of the actual physical count of all Schedule II items at the beginning of the month and the end of the month. Records at the facility must correlate with the amount dispensed.

The report is required to be completed monthly and sent to the facility director with a copy to the APO. It is to be completed by the 10th day following the end of the month.

2. Record Formats

a. A copy of the HSA–91 Pharmacy Quarterly and Cumulative Workload Report is included in appendix A.

b. A copy of the HSA–74, Monthly Report for Narcotics and Other Controlled Substances is included in appendix A.

3. Transmission Media

Reports are to be submitted in hardcopy format to the APO.

H. Environmental Health Activity Reporting and Facility Data System

1. Reporting Requirements

a. The Environmental Health Activity Reporting and Facility Data System (EHAR & FDS) Instruction Manual provides complete instructions for reporting into the EHAR & FDS.

b. The EHAR & FDS is a microcomputer based system which combines two previously separate data collection systems. The system is decentralized to the Area level providing maximum flexibility for Area environmental health programs. The EHAR section of the new system is used to collect environmental health activity data. The FDS section is a tracking system for surveys conducted at specific facilities. For the EHAR section, Headquarters requirements can be met with a sampling procedure that uses one full week of activities per month in accordance with the sample reporting week schedule to be specified by IHS Headquarters. The FDS section will not utilize sampling; all surveys conducted at specific facilities will be reported into the system.

c. Each Area, utilizing standard forms and software, will define procedures for collecting the EHAR & FDS data. Key entry of forms will occur at the Area level.

2. Record Formats

a. One form is used to update the EHAR & FDS Area Master File.

b. A sample of the EHAR & FDS form is included in appendix A. Each form consists of 7 records. To eliminate redundant hand coding, data fields for each of these 7 records contained in record positions 1–14 are entered only once per form. If one of these values changes, a new form must be started.

c. Fields in the EHAR & FDS system.

Field	Record position	Required
Area Code	1–2	X
Service Unit	3–4	X
Community Code	5–7	X
Worker Number	8–10	X
Month	11–12	X
Year	13–14	X
Service Code	15–16	X
Category Code	17–18	X
Id Code	19–21	X
Activity Code	22–24	X
Number Activities	25–32	X
Activity Time	33–40	X
Linkage Code	41–49	X
Facility Name	50–79	X

3. Data Transmission

The EHAR & FDS data will be forwarded electronically to the Division of Environmental Health computer bulletin board in Rockville, Maryland, on a quarterly basis.

I. Mental Health and Social Services Reporting System (MH & SS)

1. Reporting Requirements

a. Direct patient care is reported on the appropriate direct care reporting system. The Mental Health and Social

Services record is used to report program related activities as a supplement to patient care reporting.

2. Record Formats

a. Mental Health or Social Services direct patient care recording will follow the appropriate procedures noted in prior sections for Ambulatory Patient Care, Direct Inpatient, Contract Health Services Outpatient and Contract Health Services Inpatient.

b. The MH & SS record is used as an activities reporting document to record staff effort. Headquarters requirements can be met with a sampling procedure that uses one full week of activities per month in accordance with the sample reporting week schedule to be specified by IHS Headquarters. The data are to be reported quarterly.

c. The format of the MH & SS record is shown in Figure I–1.

d. A sample of the MH & SS Activity Reporting Form, an activity code list, and a problem code list are included in Appendix A. A copy of the instructions for using the MH & SS Activities Reporting Form are available on request from Headquarters, IHS.

3. Transmission Media

a. *Patient care.* Mental Health or Social Services direct patient care recording will follow the appropriate procedures noted in prior sections for Ambulatory Patient Care, Direct Inpatient, Contract Health Services Outpatient and Contract Health Services Inpatient.

b. *Activities reporting.* Activities reports for each Area are submitted to the Division of Data Processing Services by mail on nine track unlabeled, unblocked EBCDIC tape or by other methods arranged between Area and DDPS. Any arrangements between Area and Contractors on how the data will be submitted at that level will have to conform to the methods the Area uses to submit data to DDPS.

c. *RPMS Generic Activities Reporting System (RPMS-GARS).* There is an RPMS ANSI MUMPS GARS data entry program which allows for records to be submitted to Area for compilation and forwarding from Area to DDPS.

MENTAL HEALTH AND SOCIAL SERVICES ACTIVITIES REPORTING

[Input Record Data Fields]

Position	Item	Content/comment	Required
2–3	Area	Standard IHS Codes	X
4–5	Service Unit	Standard IHS Codes	X
6–7	Facility	Standard IHS Codes	X
8–9	Discipline	Program affiliation, MH/SS	X
10–15	Date	Date of Service-Mo/Da/Yr	X
16–18	Provider	Provider identifier	X
19–21	Location	IHS 3-digit code (from St/Co/Comm code list) identifying community where activity took place	X
22–23	Activity	Two digit numeric code. See attached *Activity Codes*	X
24–25	Recipient	Two digit numeric code using Six category field to designate categories of recipients.	
26–27	Primary Purpose	Two digit numeric code. See attached *Problem Codes*	X
28–29	Secondary Purpose	Two digit numeric code. See attached *Problem Codes*	
30–31	Setting Codes	Two digits distinguishing up to ten service settings.	
32–34	Number Served	Up to three digits to specify Number of persons served directly by reported activity.	X
35–36	Age	Two digits to show age in years	
37	Sex	M or F	
38–40	Activity Time	Up to three digits showing Time in minutes	X
41–43	Travel Time	Up to three digits to show Time in minutes	
44–45	Refer: From	2-Digit Code distinguishing up to 10 referral sources	
46–47	Refer: To	Same as "Refer From" Codes	
48	Flag 1	Yes/No Field	
49	Flag 2	Yes/No Field	
50	Flag 3	One digit field distinguishing up to five categories of data	
51	Flag 4	One digit field distinguishing up to five categories of data	
52–100	Notes	Narrative (up to 48 alpha characters)	

J. Alcoholism Treatment Guidance System (ATGS)/Chemical Dependency Management Information System (CDMIS)

1. General Reporting Requirements for ATGS and CDMIS

a. All IHS-funded alcohol/substance abuse programs, including Urban Programs, will report their activities on either ATGS or CDMIS. Programs will use ATGS until CDMIS is operational and implemented in their specific program. ATGS will be discontinued upon implementation of ATGS in a program.

b. CDMIS will be beta-tested in fiscal year (FY) 1991, with implementation beginning in FY 1992 and will be completed as quickly as funding, logistics, and staffing allow.

2. Reporting Requirement for ATGS

a. An Alcoholism Treatment Guidance System (ATGS) record is required for each person treated in an IHS alcoholism and substance abuse treatment program (including covered contractors) until a program is converted to CDMIS. Patients are usually present at the time of a service, but services such as multi-disciplinary staffing and family counseling without the client present are also documented. In addition to completing the computer form, the provider must also note services in the progress notes maintained in the treatment chart. Certified chemical dependency counselors, counselors-in-training, and other providers qualified by the program director may enter information in the client record. In addition to treatment services, prevention services and other staff activities are reported through ATGS.

b. The ATGS Counselor's Resource Manual, October 1983, provides complete definitions and procedures for reporting in the ATGS system and client chart.

3. Record Formats for ATGS

a. The formats of the ATGS records are shown in Figures J–1 through J–9.

b. Samples of ATGS forms are included in appendix A.

4. Transmission Media for ATGS

a. Computer forms are sent by the alcoholism and substance abuse programs to the appropriate IHS Area Office by the 6th day of the month.

Forms are then batched and mailed to the keytaping contractor, UNICOR, on or before the 10th of each month. UNICOR key tapes the data and forwards a tape to the IHS Division of Data Processing Services (DDPS) in Albuquerque, New Mexico. DDPS produces reports from the tapes and provides two copies to each IHS Area Office, who in turn distributes one copy to each program that provided data.

5. New System Under Development

a. Current plans call for a gradual phasing out of the ATGS in favor of the new Chemical Dependency Management Information System (CDMIS) beginning in FY 1992 with implementation to proceed as quickly as funds, logistics, and staffing allow. Final beta testing is to take place during the last quarter of FY 1991. Once on CDMIS, a program will discontinue ATGS. There will be two parallel systems operating during the CDMIS implementation period.

b. The Alcoholism PSG (also known as the CDMIS Committee and the ATGS Revision Committee) has examined every item of the ATGS and CDMIS, asking what is the minimum information required by both the Director, IHS, and the Congress. Drafts have been distributed to tribal programs through the Area Alcohol Program Coordinators, with comments carefully considered. Only those items that are being demanded on a regular basis by the Director, IHS, or the Congress, those items required in law, and specific items requested by a majority of the tribal programs have been included in CDMIS.

6. Reporting Requirement for CDMIS

a. The Chemical Dependency Management Information System is an IHS RPMS application that builds on the Patient Registration module. CDMIS consists of two forms. CDMIS–1 is patient-specific and is completed upon initial entry into the program, during treatment, and during a follow-up phase. Preventive activities are also recorded on this form for electronic incorporation into the Generic Activities Reporting System (GARS). CDMIS–2 is an annual staffing, funding, and program report. Either or both forms may be completed for later entry into the computer-based system, or the data may be entered directly into the database. Certified chemical dependency counselors, counselors-in-training, other approved providers, data entry personnel, and others certified as qualified by the program director are to complete the CDMIS forms and/or enter the data into the computer.

b. The CDMIS Program Manual (complete with sub-manuals) scheduled for completion in June 1991, provides the definitions and procedures for reporting on the CDMIS.

c. Staff prevention activities from CDMIS–1 will be reported through GARS. Headquarters requirements can be met with a sampling procedure that uses one full week of activities per month in accordance with the sample reporting week schedule to be specified by IHS Headquarters.

7. Record Formats for ATGS

a. The formats of the CDMIS records are shown in Figures J–10 through J–12.

b. Samples of CDMIS forms are included in Appendix A.

8. Transmission Media

a. Data will be transmitted electronically (or by computer disk in those cases where electronic transmission is unreliable as certified by the Area ISC) to either the servicing Service Unit or Area Office using an approved IHS extract program. This data will be forwarded by the Service Unit to the Area Office electronically. The Area Office will electronically forward the data to the IHS Division of Data Processing Services (DDPS) in Albuquerque, New Mexico. Data will be forwarded to the Area Office quarterly by the 7th day of the month following the end of the quarter. The Area Office will transmit the data to DDPS by the 10th of the month. DDPS produces reports from the data and provides the copy to the ASAPB and two copies to each IHS Area Office, who, in turn, distributes one copy to each program that provided data. DDPS also provides the capability for ASAPB to download data for special reports, graphing reports, etc. Programs may download their data from the Service Unit (or Area Office if serviced by the Area Office) to print local program reports as desired.

b. The Area ISC will, in consultation with the Area Alcohol Program Coordinator, appropriate service unit personnel, and alcohol program director, determine whether the program will be serviced by the Service Unit or by the Area Office.

ATGS KEYTAPING INSTRUCTIONS

	Field Name	Record position	Location on documents or special instructions
	FORM NAME: SHORT TERM NO: A		
	RECORD TYPE	1–2	NUMERIC '00'.
	PROGRAM ID	3–8	NUMERIC.
1.	CASE NUMBER	9–17	9–11 ALPHANUMERIC, 12–17 NUMERIC.
2.	SEX	18	"1" IF M, "2" IF F.
3.	ETHNICITY	19–21	ENTER '1' IF INDIAN, '2' IF ALASKAN, '3' IF OTHER, RIGHT BLANK FILL UNUSED POSITIONS.
4.	TRIBE CODE	22–24	BLANK OF NUMERIC.
5.	EMPLOYED	25	"1" IF Y, "2" IF NO.
6.	DEPENDENTS	26	"1" IF Y, "2" IF NO, OR BLANK.
	NUMBER OF	27–28	BLANK OR LEFT-ZERO FILLED NUMERIC.
7.	CHILD CARE	29	"1" IF Y, "2" IF NO, OR BLANK.
8.	ALC/DRUG TREATMENT	30	"1" IF Y, "2" IF NO, OR BLANK.
9.	COMPONENT CODES	31–32	BLANK OR NUMERIC.
		33–34	BLANK OR NUMERIC.
		35–36	BLANK OR NUMERIC.
10A.	ADMIT/DISCHARGE	37–38	BLANK OR ENTER NUMBERS CIRCLED.
	TOTAL DAYS	39–40	BLANK OR LEFT-ZERO FILLED NUMERIC.
	2ND LINE OF 10A	41–44	—SEE INSTRUCTIONS FROM RECORD POS. 37–40.
	3RD LINE OF 10A	45–48	—SEE INSTRUCTIONS FROM RECORD POS. 37–40.
10B.	SERVICE CODE	49–50	BLANK OR NUMERIC.
	TOTAL HOURS	51–52	BLANK OR LEFT-ZERO FILLED NUMERIC.
	2ND LINE OF 10B	53–56	—SEE INSTRUCTIONS FROM RECORD POS. 49–52.
	3RD LINE OF 10B	57–60	—SEE INSTRUCTIONS FROM RECORD POS. 49–52.

ATGS KEYTAPING INSTRUCTIONS—Continued

	Field Name	Record position	Location on documents or special instructions
11.	REFERRAL CODES	61–72	BLANK AND/OR NUMERIC, ENTER 2-DIGIT CODES LEFT TO RIGHT, RIGHT BLANK FILL ANY UNUSED POSITIONS.
12.	PRIMARY PROBLEM	73–74	NUMERIC.
	STATE FUNDS CODE	75–76	BLANK OR NUMERIC.
13.	NEW/REOPEN PROGRAM	77	ENTER "1" or "2" FOR BOX CHECKED.
	NEW/REOPEN ATGS	78	ENTER "1" or "2" FOR BOX CHECKED OR BLANK.
14.	DISCHARGE	79	ENTER NUMBER OF BOX CHECKED (1–5) OR BLANK.
15 & 16.		—	DO NOT KEYTAPE.
17.	STATE ID NUMBER	80–88	BLANK OR ALPHANUMERIC.
18.	SERVICE MONTH	89–90	NUMERIC, LEFT ZERO FILLED.
	SERVICE YEAR	91–92	NUMERIC, LEFT ZERO FILLED.
FORM NAME: INITIAL CONTACT NO: 1			
	RECORD TYPE	1–2	NUMERIC '01'.
	PROGRAM ID	3–8	NUMERIC.
	COMPONENT CODE	9–10	NUMERIC.
	CASE NUMBER	11–19	11–13 ALPHANUMERIC, 14–19 NUMERIC.
	STAFF CODE	20–21	BLANK OR NUMERIC.
	COUNTY CODE	22–24	BLANK OR NUMERIC.
	PRIMARY PROBLEM	25–26	NUMERIC.
	SECONDARY PROBLEM	27–28	BLANK OR NUMERIC.
	STATE FUNDS CODE	29–30	BLANK OR NUMERIC.
	STATE CLIENT ID	31–39	BLANK OR ALPHANUMERIC.
	OPTIONAL CODE C	40–41	BLANK OR NUMERIC.
	OPTIONAL CODE D	42–43	BLANK OR NUMERIC.
1.	SEX	44	"1" IF M, "2" IF F.
2.	REFERRED TO PROGRAM	45–46	NUMERIC.
3.	COURT REFERRAL	47–48	BLANK OR NUMERIC.
4.	ETHNICITY	49–54	ENTER NUMBER CORRESPONDING TO BOX CHECKED, RIGHT-BLANK FILL UNUSED FIELDS, (i.e., IF BOXES 1 & 3 CHECKED ENTER '13').
5.	TRIBE CODE	55–57	BLANK OR NUMERIC.
	DEGREE OF BLOOD	58	BLANK OR NUMERIC.
6.	IHS ELIGIBLE	59	"1" IF YES, "2" IF NO, "3" IF NONE AVAILABLE.
7.	MARITAL	60	ENTER NUMBER OF FIRST BOX CHECKED.
8.	EMPLOYED	61	"1" IF YES, "2" IF NO.
	OCCUPATION	62–63	BLANK OR NUMERIC.
	INCOME	64–68	BLANK OR NUMERIC OR ZEROS.
9.	EDUCATION	69–70	ENTER NUMBER CIRCLED, LEFT-ZERO FILLED.
	OTHER	71–72	BLANK OR NUMERIC.
10.	SKILL DEVELOPMENT	73	"1" IF YES, "2" IF NO.
11.	HEALTH INSURANCE	74	"1" IF YES, "2" IF NO.
	MEDICARE	75	"1" IF YES, "2" IF NO.
	MEDICAID	76	"1" IF YES, "2" IF NO.
12.	VETERAN	77	"1" IF YES, "2" IF NO.
13.	YEARS DRINKING/DRUG	78–79	LEFT ZERO-FILLED NUMERIC.
	YEARS HEAVY USE	80–81	BLANK OR LEFT ZERO-FILLED NUMERIC.
	PREVIOUS TREATMENT	82	"1" IF YES, "2" IF NO.
	PRIOR TREATMENT-IHS	83	BLANK OR "1" IF YES, "2" IF NO, "3" IF UNKNOWN.
14.	DEPENDENTS	84	"1" IF YES, "2" IF NO.
	HOW MANY	85–86	BLANK OR NUMERIC.
15.	BEEN HOSPITALIZED	87	"1" IF YES, "2" IF NO.
	ALCOHOL RELATED	88	"1" IF YES, "2" IF NO, OR BLANK.
	ARRESTED	89	"1" IF YES, "2" IF NO.
	DWI	90	"1" IF YES, "2" IF NO, OR BLANK.
	USED ALCOHOL	91	"1" IF YES, "2" IF NO.
	NUMBER OF DAYS	92–93	BLANK OR LEFT-ZERO FILLED NUMERIC.
	USED OTHER DRUGS	94	"1" IF YES, "2" IF NO.
	NUMBER OF DAYS	95–96	BLANK OR LEFT-ZERO FILLED NUMERIC.
	TYPE OF DRUGS CODE	97–98	BLANK OR NUMERIC.
16.	ALCOHOL STAGE	99	BLANK OR NUMERIC.
	PHYSICAL STAGE	100	BLANK OR NUMERIC.
	EMOTIONAL STAGE	101	BLANK OR NUMERIC.
	CULTURAL STAGE	102	BLANK OR NUMERIC.
	SPIRTUAL STAGE	103	BLANK OR NUMERIC.
	RECOMMENDED:	104	BLANK OR ENTER NUMBER OF FIRST BOX CHECKED.
	DIFFERENCE CODE	105–106	BLANK OR NUMERIC.
17.	ACTUAL PLACEMENT	107	ENTER NUMBER OF FIRST BOX CHECKED (1–7).
	PLACEMENT TYPE	108	BLANK OR ENTER LETTER OF BOX (A–F).
18.	REFERRAL MADE	109	BLANK OR "1" IF YES, "2" IF NO.
	REFERRAL CODE	110–111	BLANK OR NUMERIC.
	REFERRAL CODE	112–113	BLANK OR NUMERIC.
19.	SPIRITUAL PREFERENCE	114–115	BLANK OR NUMERIC.
	SPIRITUAL PREFERENCE	116–117	BLANK OR NUMERIC.
	PRACTICE	118	"1" IF REGULAR, "2" IF OCCASIONAL, "3" IF NEVER, OR BLANK.
	ORIGINAL CONTACT DATE	119–124	BLANK OR NUMERIC (MMDDYY FORMAT). AS REQUIRED, LEFT-ZERO FILL ANY 2-DIGIT FIELD.

ATGS KEYTAPING INSTRUCTIONS—Continued

	Field Name	Record position	Location on documents or special instructions
	DATE FORM COMPLETED	125–130	NUMERIC (MMDDYY FORMAT). AS REQUIRED, LEFT-ZERO FILL ANY 2-DIGIT FIELD.
FORM NAME: DISCHARGE REPORT NO: 7			
	RECORD TYPE	1–2	NUMERIC '07'.
	PROGRAM ID	3–8	NUMERIC.
	COMPONENT CODE	9–10	NUMERIC.
	CASE NUMBER	11–19	11–13 ALPHANUMERIC, 14–19 NUMERIC.
	STAFF CODE	20–21	BLANK OR NUMERIC.
	COUNTY CODE	22–24	BLANK OR NUMERIC.
	PRIMARY PROBLEM	25–26	NUMERIC.
	STATE FUNDS CODE	27–28	BLANK OR NUMERIC.
	STATE CLIENT ID	29–37	BLANK OR ALPHANUMERIC.
	OPTIONAL CODE C	38–39	BLANK OR NUMERIC.
	OPTIONAL CODE D	40–41	BLANK OR NUMERIC.
1.	DATE OF ADMISSION	42–47	NUMERIC (MMDDYY FORMAT) LEFT-ZERO FILLED EACH 2-DIGIT FIELD IF NECESSARY.
2.	DATE OF DISCHARGE	48–53	see instructions for 42–47.
3.	DISCHARGE FROM	54	ENTER LETTER OF BOX CHECKED (A–M).
4.	SERVICES USED	55–60	ENTER FIRST 6 LETTERS LEFT TO RIGHT, RIGHT-BLANK FILL ANY REMAINING POSITIONS.
5.	DISCHARGE REASON	61	ENTER LETTER OF FIRST BOX CHECKED.
6.	CLIENT GOALS STATUS	62	ENTER NUMBER OF BOX CHECKED.
7.	ADMISSION STAGES	63–67	BLANKS OR ENTER COLUMN OF NUMBERS UNDER ADMISSION.
	DISCHARGE STAGES	68–72	BLANKS OR ENTER COLUMN OF NUMBERS UNDER DISCHARGE.
8.	USING WHAT	73	ENTER "1" IF ALCOHOL CIRCLED, "2" FOR DRUG, "3" FOR SUBSTANCES, "4" IF MORE THAN ONE ITEM CIRCLED.
	USING ALC/DRG/SUB	74	"1" IF YES, "2" IF NO, "3" IF UNKNOWN.
9.	DISCHARGE PLAN NEGOT	75	"1" IF YES, "2" IF NO, OR BLANK.
10.	DISCHARGE TO:	76	ENTER LETTER CHECKED IN CR * COLUMN.
		77	ENTER LETTER CHECKED IN CD * COLUMN.
	DATE FORM COMPLETED	78–83	BLANK OR NUMERIC (MMDDYY FORMAT) AS REQUIRED, LEFT ZERO-FILL EACH 2-DIGIT FIELD.
FORM NAME: FOLLOW-UP STATUS NO: 8			
	RECORD TYPE	1–2	NUMERIC '08'.
	PROGRAM ID	3–8	NUMERIC.
	COMPONENT CODE	9–10	BLANK OR NUMERIC.
	CASE NUMBER	11–19	11–13 ALPHANUMERIC, 14–19 NUMERIC.
	STAFF CODE	20–21	BLANK OR NUMERIC.
	COUNTY CODE	22–24	BLANK OR NUMERIC.
	PRIMARY PROBLEM	25–26	NUMERIC.
	STATE FUNDS	27–28	BLANK OR NUMERIC.
	STATE CLIENT ID	29–37	BLANK OR ALPHANUMERIC.
	OPTIONAL CODE C	38–39	BLANK OR NUMERIC.
	OPTIONAL CODE D	40–41	BLANK OR NUMERIC.
1.	TYPE STATUS REPORT	42	ENTER NUMBER OF BOX CHECKED.
2.	MOVED/DIED	43	BLANK OR NUMERIC. IF QUESTION 2 IS CHECKED, SKIP REST OF RECORD AND ENTER DATE ON BOTTOM OF FORM (RECORD POSITION 75–80).
3.	CLIENT STATUS	44	ENTER LETTER OF BOX CHECKED.
4.	CLIENT STAGE	45–49	BLANK OR NUMERIC.
5.	EMPLOYED	50	"1" IF YES, "2" IF NO.
	OCCUPATION	51–52	BLANK OR NUMERIC.
	INCOME	53–57	BLANK OR LEFT-ZERO FILLED NUMERIC.
6.	SKILL DEV./TRNG.	58	"1" IF YES, "2" IF NO.
7.	MARITAL	59	ENTER NUMBER OF BOX CHECKED.
8.	HOSPITALIZED	60	"1" IF YES, "2" IF NO.
	ALCOHOL RELATED	61	"1" IF YES, "2" IF NO, OR BLANK.
	ARRESTED	62	"1" IF YES, "2" IF NO.
	DWI	63	"1" IF YES, "2" IF NO, OR BLANK.
	USED ALCOHOL	64	"1" IF YES, "2" IF NO.
	NUMBER DAYS	65–66	BLANK OR LEFT-ZERO FILLED NUMERIC.
	USED OTHER DRUGS	67	"1" IF YES, "2" IF NO.
	NUMBER DAYS	68–69	BLANK OR LEFT-ZERO FILLED NUMERIC.
	TYPE CODE	70–71	BLANK OR NUMERIC.
9.	DAYS LAST DRINK	72–74	BLANK OR LEFT-ZERO FILLED NUMERIC OR "NA".
	DATE FORM COMPLETED	75–80	NUMERIC (MMDDYY FORMAT). LEFT-ZERO FILL EACH TWO-DIGIT FIELD IF NECESSARY.
FORM NAME: SERVICES REPORT NO: 9			
	RECORDTYPE	1–2	NUMERIC '09'.
	MONTH	3–4	LEFT-ZERO FILLED NUMERIC.
	YEAR	5–6	LEFT-ZERO FILLED NUMERIC.
	PROGRAM ID	7–12	NUMERIC.
	COMPONENT CODE	13–14	NUMERIC.

ATGS KEYTAPING INSTRUCTIONS—Continued

	Field Name	Record position	Location on documents or special instructions
	CASE NUMBER	15–23	15–17 ALPHANUMERIC, 18–23 NUMERIC.
	STAFF CODE	24–25	BLANK OR NUMERIC.
	COUNTY CODE	26–28	BLANK OR NUMERIC.
	PRIMARY PROBLEM	29–30	NUMERIC.
	STATE FUNDS CODE	31–32	BLANK OR NUMERIC.
	STATE CLIENT ID	33–41	BLANK OR ALPHANUMERIC.
	OPTIONAL CODE C	42–43	BLANK OR NUMERIC.
	OPTIONAL CODE D	44–45	BLANK OR NUMERIC.
1.	DAY OF MONTH	46–47	BLANK OR LEFT-ZERO FILLED NUMERIC.
	COMPONENT MONTH	48–49	BLANK OR NUMERIC.
	STAFF CODE	50–51	BLANK OR ALPHANUMERIC.
	SERVICE CODE	52–53	BLANK OR NUMERIC.
	TOTAL HOURS	54–56	54–55 LEFT-ZERO FILLED NUMERIC, NO DECIMAL POINT. 56 NUMERIC, ZERO-FILL TENTH'S POSITION IF ONLY WHOLE NUMBER ENTERED.
	14 ADDITIONAL LINES OF DATA, SAME FORMAT AS POSITIONS 46–56.	57–210	ENTER EACH 11-DIGIT FIELD DISREGARDING ANY IMBEDDED BLANK LINE, RIGHT-BLANK FILL UNUSED FIELDS.
2.	TREATMENT PLAN NEG	211	"1" IF YES, "2" IF NO, OR BLANK.
	TREATMENT PLAN PROG	212	"1" IF YES, "2" IF NO, OR BLANK.
3.	ARRIVE AT AGENCY	213	"1" IF YES, "2" IF NO, OR BLANK.
	ACCEPTED FOR SERVICE	214	"1" IF YES, "2" IF NO, OR BLANK.
4.	IHS-NEW/REOPEN/CONT	215	"1, 2 OR 3" FOR NEW, REOPEN OR CONTINUE RESPECTIVELY OR BLANK.
	PROG-NEW/REOPEN/CONT	216	"1, 2 OR 3" FOR NEW, REOPEN OR CONTINUE RESPECTIVELY OR BLANK.
	COMP.-NEW/REOPEN/CONT	217	"1, 2 OR 3" FOR NEW, REOPEN OR CONTINUE RESPECTIVELY OR BLANK.
5.	REFERRALS OUT	218–223	BLANK &/OR NUMERIC, ENTER 2-DIGIT CODES LEFT TO RIGHT, RIGHT BLANK FILL ANY UNUSED POSITIONS.
6.	STATUS	224–226	ENTER NUMBERS CIRCLED OR BLANK.
	COMPONENT CODE	227–228	BLANK OR NUMERIC.
	TOTAL DAYS	229–230	BLANK OR LEFT-ZERO FILLED NUMERIC.
	4 ADDITIONAL LINES OF DATA, SAME FORMAT AS POSITIONS 224–230.	231–259	ENTER EACH 9-DIGIT FIELD DISREGARDING ANY IMBEDDED BLANK LINE, RIGHT-BLANK FILL UNUSED FIELDS.
	DATA FORM COMPLETED	259–264	BLANK OR NUMERIC (MMDDYY FORMAT) AS REQUIRED, LEFT-ZERO FILL ANY 2-DIGIT FIELD.
FORM NAME: SERVICES REPORT—CONTINUATION NO: 9A			
	RECORD TYPE	1–2	CHARACTERS 'OA' (NUMERIC 0).
	PAGE	3	NUMERIC.
	MONTH	4–5	LEFT-ZERO FILLED NUMERIC.
	YEAR	6–7	LEFT-ZERO FILLED NUMERIC.
	PROGRAM ID	8–13	NUMERIC.
	COMPONENT CODE	14–15	NUMERIC.
	CASE NUMBER	16–24	16–18 ALPHANUMERIC, 19–24 NUMERIC.
	STAFF CODE	25–26	BLANK OR NUMERIC.
	COUNTY CODE	27–29	BLANK OR NUMERIC.
	PRIMARY PROBLEM	30–31	NUMERIC.
	STATE FUNDS CODE	32–33	BLANK OR NUMERIC.
	STATE CLIENT CODE	34–42	BLANK OR ALPHANUMERIC.
	OPTIONAL CODE C	43–44	BLANK OR NUMERIC.
	OPTIONAL CODE D	45–46	BLANK OR NUMERIC.
1.	DAY OF MONTH	47–48	LEFT-ZERO FILLED NUMERIC.
	COMPONENT CODE	49–50	NUMERIC.
	STAFF CODE	51–52	BLANK OR ALPHANUMERIC.
	SERVICE CODE	53–54	NUMERIC.
	TOTAL HOURS	55–57	55–56 LEFT-ZERO FILLED NUMERIC, NO DECIMAL POINT. 57 NUMERIC, ZERO-FILL TENTHS POSITION IF ONLY WHOLE NUMBER ENTERED.
	38 ADDITIONAL LINES OF DATA, SAME FORMAT AS POSITIONS 47–57.	58–475	ENTER EACH 11-DIGIT FIELD DISREGARDING ANY IMBEDDED BLANK LINE, RIGHT-BLANK FILL UNUSED FIELDS.
FORM NAME: ACTIVITY REPORT NO: 10			
	RECORD TYPE	1–2	NUMERIC 10.
	MONTH	3–4	LEFT-ZERO FILLED NUMERIC.
	YEAR	5–6	LEFT-ZERO FILLED NUMERIC.
	PROGRAM ID	7–12	NUMERIC.
	COMPONENT CODE	13–14	NUMERIC.
	STAFF CODE	15–16	NUMERIC.
	STAFF TYPE	17	"1, 2, 3 OR 4" FOR REG., CHR, VOLUN., OR CETA, RESPECTIVELY.
	DIRECT SERVICE STAFF	18	"1" IF YES, "2" IF NO. UNDER PREVENTION AND COMMUNITY EDUCATION; (ALL ROWS EXCEPT BOTTOM ONE).
	TYPE SESSION	19–21	LEFT-ZERO FILLED NUMERIC.
	TARGET GROUP	22–23	NUMERIC.
	NUMBER OF PEOPLE	24–27	LEFT-ZERO FILLED NUMERIC.
	21 ADDITIONAL LINES OF DATA, SAME FORMAT AS POSITIONS 19–27.	28–216	ENTER EACH 9-DIGIT FIELD DISREGARDING ANY BLANK LINES, RIGHT-BLANK FILL UNUSED FIELDS. TOTAL ROW:
	CONFERENCE & WORKSHOPS	217–219	FOR ALL REMAINING FIELDS, BLANK OR LEFT-ZERO.
	INSERVICE TRAINING	220–222	FILLED NUMERIC NO DECIMAL POINTS.
	STAFF MEETINGS	223–225	ALL TOTAL FIELDS ARE THREE DIGITS EXCEPT THOSE NOTED BELOW:
	LEAVE	226–228	

ATGS KEYTAPING INSTRUCTIONS—Continued

Field Name	Record position	Location on documents or special instructions
SUPERVISION OF STAFF	229-231	
REPORT TO TRIBAL CNCL	232-234	
ATGS	235-237	
PLANNING & DEVELOPMENT	238-240	
GENERAL ADMINISTRATION	241-243	
INPATIENT DIRECT HOURS	244-246	
OUTPATIENT DIRECT HOURS	247-249	
PREVENTION-INDIVIDUALS	250-252	
TRAVEL DIRECT-CLIENT	253-255	
TRAVEL INDIRECT	256-258	
OTHER	259-261	
INFORMATION INQUIRIES	262-264	
CONTACTS FOR INFO.	265-268	4 DIGIT FIELD.
SESSION CODE	269-271	BLANK.
TARGET GROUP	272-273	BLANK—2 DIGIT FIELD.
PERSONS IN GROUP	274-277	4 DIGIT FIELD.
HOURS PREPARATION	278-280	
HOURS PRESENTATION	281-283	
TOTAL HOURS	284-286	
FORM NAME: ACTIVITY REPORT—CONTINUATION NO: 10A		
RECORD TYPE	1-2	NUMERIC '11'.
	3-286	THIS RECORD IS IDENTICAL TO FORM NO. 10 EXCEPT THE RECORD TYPE CODE.

RECORD FORMAT CONTROL LIST OF FIELDS

[CDMIS Client Demographics]

Field name	Starts	Length	Ends	Fill logic	XS	Length logic
Program	1	6	6	Blanks		Truncate.
Service Date	7	6	12	Blanks		Truncate.
Component	13	4	16	Blanks		Truncate.
Provider	17	5	21	Blanks		Truncate.
Contact	22	2	23	Blanks		Truncate.
Follow-up Months	24	2	25	Blanks		Truncate.
Client ID	26	9	34	Blanks		Truncate.
Client Age RNG	35	1	35	Blanks		Truncate.
Client DOB	36	7	42	Blanks		Truncate.
Client Tribe	43	3	45	Blanks		Truncate.
Client Sex	46	1	46	Blanks		Truncate.
Client Community	47	7	53	Blanks		Truncate.
Primary Problem	54	2	55	Zero/Blank		Truncate.
Secondary Problem	56	2	57	Zero/Blank		Truncate.
In Treatment	58	1	58	Blanks		Truncate.
Alcohol Days	59	3	61	Zero/Blank		Truncate.
Drug Days	62	3	64	Zero/Blank		Truncate.
Drug Combination	65	1	65	Blanks		Truncate.
Drug Type	66	8	73	Blanks		Truncate.
Hospital Days	74	3	76	Zero/Blank		Truncate.
Arrests	77	3	79	Zero/Blank		Truncate.
Alc/Sub Stage	80	1	80	Blanks		Truncate.
Physical Stage	81	1	81	Blanks		Truncate.
Emotional Stage	82	1	82	Blanks		Truncate.
Social Stage	83	1	83	Blanks		Truncate.
Cultural Stage	84	1	84	Blanks		Truncate.
Behavioral Stage	85	1	85	Blanks		Truncate.
Recommended Placement	86	4	89	Blanks		Truncate.
Actual Placement	90	4	93	Blanks		Truncate.
Difference Reason	94	2	95	Blanks		Truncate.
Inpatient Days	96	3	98	Zero/Blank		Truncate.
Goal Attainment	99	1	99	Blanks		Truncate.
TDC Reason	100	2	101	Blanks		Truncate.
Discharge Plan	102	1	102	Blanks		Truncate.

RECORD FORMAT CONTROL LIST OF FIELDS

[CDMIS Client Services]

Field name	Starts	Length	Ends	Fill Logic	XS	Length Logic
Program	1	6	6	Blanks		Truncate.
Service Date	7	6	12	Blanks		Truncate.
Component	13	4	16	Blanks		Truncate.
Provider	17	5	21	Blanks		Truncate.
Contact	22	2	23	Blanks		Truncate.
Client ID	24	9	32	Blanks		Truncate.

RECORD FORMAT CONTROL LIST OF FIELDS—Continued

[CDMIS Client Services]

Field name	Starts	Length	Ends	Fill Logic	XS	Length Logic
Client Age Range	33	1	33	Blanks		Truncate.
Client DOB	34	7	40	Blanks		Truncate.
Client Tribe	41	3	43	Blanks		Truncate.
Client Sex	44	1	44	Blanks		Truncate.
Client Community	45	7	51	Blanks		Truncate.
Record Order	52	2	53	Zeroes		Truncate.
Service1	54	9	62	Blanks		Truncate.
Service2	63	9	71	Blanks		Truncate.
Service3	72	9	80	Blanks		Truncate.
Service4	81	9	89	Blanks		Truncate.
Service5	90	9	98	Blanks		Truncate.
Service6	99	9	107	Blanks		Truncate.
Service7	108	9	116	Blanks		Truncate.
Service8	117	9	125	Blanks		Truncate.
Service9	126	9	134	Blanks		Truncate.
Service10	135	9	143	Blanks		Truncate.
Service11	144	9	152	Blanks		Truncate.

RECORD FORMAT CONTROL LIST OF FIELDS

[CDMIS Program]

Field name	Starts	Length	Ends	Fill logic	XS	Length logic
CDMIS Program	1	6	6	Blanks		Truncate.
Fiscal Year	7	2	8	Zero/Blank		Truncate.
Director	9	35	43	Blanks		Truncate.
Fund CAT1	44	3	46	Blanks		Truncate.
Fund CAT2	47	3	49	Blanks		Truncate.
Fund CAT3	50	3	52	Blanks		Truncate.
Fund CAT4	53	3	55	Blanks		Truncate.
Staff Total	56	3	58	Zeroes		Truncate.
IHS Staff	59	3	61	Zeroes		Truncate.
Male Staff	62	3	64	Zeroes		Truncate.
Female Staff	65	3	67	Zeroes		Truncate.
Indian Staff	68	3	70	Zeroes		Truncate.
NON Indian Staff	71	3	73	Zeroes		Truncate.
Salary Average	74	5	78	Zeroes		Truncate.
Salary PCT IHS Funded	79	3	81	Zeroes		Truncate.
IHS Funds Direct	82	10	91	Zeroes		Truncate.
IHS Funds Indirect	92	10	101	Zeroes		Truncate.
IHS Indirect Rate	102	3	104	Zeroes		Truncate.
Outpatients to See	105	5	109	Zeroes		Truncate.
Smoke Free	110	1	110	Zeroes		Truncate.
CAC	111	3	113	Zeroes		Truncate.
NAC	114	3	116	Zeroes		Truncate.
PSY	117	3	119	Zeroes		Truncate.
SW	120	3	122	Zeroes		Truncate.
FT	123	3	125	Zeroes		Truncate.
RT	126	3	128	Zeroes		Truncate.
AT	129	3	131	Zeroes		Truncate.
PHY	132	3	134	Zeroes		Truncate.
NUR	135	3	137	Zeroes		Truncate.
ED	138	3	140	Zeroes		Truncate.
ADM	141	3	143	Zeroes		Truncate.
SPT	144	3	146	Zeroes		Truncate.
OCC	147	3	149	Zeroes		Truncate.
ONC	150	3	152	Zeroes		Truncate.
CON	153	3	155	Zeroes		Truncate.
VOL	156	3	158	Zeroes		Truncate.
STU	159	3	161	Zeroes		Truncate.
OTH-CC	162	3	164	Zeroes		Truncate.
ADC	165	3	167	Zeroes		Truncate.
FT-JD	168	3	170	Zeroes		Truncate.
MH	171	3	173	Zeroes		Truncate.
SW-JD	174	3	176	Zeroes		Truncate.
ADE	177	3	179	Zeroes		Truncate.
RT-JD	180	3	182	Zeroes		Truncate.
AT-JD	183	3	185	Zeroes		Truncate.
MED	186	3	188	Zeroes		Truncate.
ED-JD	189	3	191	Zeroes		Truncate.
AFT	192	3	194	Zeroes		Truncate.
OC-JD	195	3	197	Zeroes		Truncate.
ADM-JD	198	3	200	Zeroes		Truncate.
VOL-JD	201	3	203	Zeroes		Truncate.
STU-JD	204	3	206	Zeroes		Truncate.

RECORD FORMAT CONTROL LIST OF FIELDS—Continued

[CDMIS Program]

Field name	Starts	Length	Ends	Fill logic	XS	Length logic
OTH-JD	207	3	209	Zeroes		Truncate.
NO HS GRAD	210	3	212	Zeroes		Truncate.
HS GRAD	213	3	215	Zeroes		Truncate.
AART	216	3	218	Zeroes		Truncate.
BA/BS	219	3	221	Zeroes		Truncate.
MA/MS	222	3	224	Zeroes		Truncate.
MD/PHD	225	3	227	Zeroes		Truncate.
Other ED LVL	228	3	230	Zeroes		Truncate.
DTX-Type	231	1	231	Blanks		Truncate.
DTX-Fund	232	1	232	Blanks		Truncate.
DTX-Beds	233	2	234	Zero/Blank		Truncate.
DTX-OCC	235	3	237	Zero/Blank		Truncate.
DTX-IHS	238	3	240	Zero/Blank		Truncate.
DTX-TOT	241	3	243	Zero/Blank		Truncate.
PRT-Type	244	1	244	Blanks		Truncate.
PRT-Fund	245	1	245	Blanks		Truncate.
PRT-Beds	246	2	247	Zero/Blank		Truncate.
PRT-OCC	248	3	250	Zero/Blank		Truncate.
PRT-IHS	251	3	253	Zero/Blank		Truncate.
PRT-TOT	254	3	256	Zero/Blank		Truncate.
HWH-Type	257	1	257	Blanks		Truncate.
HWH-Fund	258	1	258	Blanks		Truncate.
HWH-Beds	259	2	260	Zero/Blank		Truncate.
HWH-OCC	261	3	263	Zero/Blank		Truncate.
HWH-IHS	264	3	266	Zero/Blank		Truncate.
HWH-TOT	267	3	269	Zero/Blank		Truncate.
TLC-Type	270	1	270	Blanks		Truncate.
TLC-Fund	271	1	271	Blanks		Truncate.
TLC-Beds	271	2	273	Blanks		Truncate.
TLC-OCC	274	3	276	Zero/Blank		Truncate.
TLC-IHS	277	3	279	Zero/Blank		Truncate.
TLC-TOT	280	3	282	Zero/Blank		Truncate.
GRH-Type	283	1	283	Blanks		Truncate.
GRH-Fund	284	1	284	Blanks		Truncate.
GRH-Beds	285	2	286	Zero/Blank		Truncate.
GRH-OCC	287	3	289	Zero/Blank		Truncate.
GRH-IHS	290	3	292	Zero/Blank		Truncate.
GRH-TOT	293	3	295	Zero/Blank		Truncate.
FGH-Type	296	1	296	Blanks		Truncate.
FGH-Fund	297	1	297	Blanks		Truncate.
FGH-Beds	298	2	299	Zero/Blank		Truncate.
FGH-OCC	300	3	302	Zero/Blank		Truncate.
FGH-IHS	303	3	305	Zero/Blank		Truncate.
FGH-TOT	306	3	308	Zero/Blank		Truncate.
TFH-Type	309	1	309	Blanks		Truncate.
TFH-Fund	310	1	310	Blanks		Truncate.
TFH-Beds	311	2	312	Zero/Blank		Truncate.
TFH-OCC	313	3	315	Zero/Blank		Truncate.
TFH-IHS	316	3	318	Zero/Blank		Truncate.
TFH-TOT	319	3	321	Zero/Blank		Truncate.
DIC-Type	322	1	322	Blanks		Truncate.
DIC-Fund	323	1	323	Blanks		Truncate.
DIC-Beds	324	2	325	Zero/Blank		Truncate.
DIC-OCC	326	3	328	Zero/Blank		Truncate.
DIC-IHS	329	3	331	Zero/Blank		Truncate.
DIC-TOT	332	3	334	Zero/Blank		Truncate.
OPT-Type	335	1	335	Blanks		Truncate.
OPT-Fund	336	1	336	Blanks		Truncate.
OPT-OCC	337	3	339	Zero/Blank		Truncate.
OPT-IHS	340	3	342	Zero/Blank		Truncate.
OPT-TOT	343	3	345	Zero/Blank		Truncate.
AFT-Type	346	1	346	Blanks		Truncate.
AFT-Fund	347	1	347	Blanks		Truncate.
AFT-OCC	348	3	350	Zero/Blank		Truncate.
AFT-IHS	351	3	353	Zero/Blank		Truncate.
AFT-TOT	354	3	356	Zero/Blank		Truncate.
DIA-Type	357	1	357	Blanks		Truncate.
DIA-Fund	358	1	358	Blanks		Truncate.
DIA-OCC	359	3	361	Zero/Blank		Truncate.
DIA-IHS	362	3	364	Zero/Blank		Truncate.
DIA-TOT	365	3	367	Zero/Blank		Truncate.
DIB-Type	368	1	368	Blanks		Truncate.
DIB-Fund	369	1	369	Blanks		Truncate.
DIB-OCC	370	3	372	Zero/Blank		Truncate.
DIB-IHS	373	3	375	Zero/Blank		Truncate.
DIB-TOT	376	3	378	Zero/Blank		Truncate.
PRV-Type	379	1	379	Blanks		Truncate.
PRV-Fund	380	1	380	Blanks		Truncate.

RECORD FORMAT CONTROL LIST OF FIELDS—Continued

[CDMIS Program]

Field name	Starts	Length	Ends	Fill logic	XS	Length logic
PRV-OCC	381	3	383	Zero/Blank		Truncate.
PRV-IHS	384	3	386	Zero/Blank		Truncate.
PRV-TOT	387	3	389	Zero/Blank		Truncate.
Address	390	70	459	Blanks		Truncate.
City	460	30	489	Blanks		Truncate.
State	490	2	491	Blanks		Truncate.
ZIP	492	11	502	Blanks		Truncate.
Phone	503	12	514	Blanks		Truncate.

K. Community Health Representative Information System (CHRIS)

1. Reporting Requirement

a. A one line entry is required to be completed on a Community Health Representative (CHR) Activities Report form for each CHR service that was provided on the day to which the form applies. Continuation CHR Activities forms (containing all header information as well as CHR activity line entries) are to be completed if all CHR services provided on a reporting day cannot all be reported on a single CHR Activities form. CHR Activities forms are to be completed during one sample week (a 7-day week) per month in accordance with the CHR sample reporting week schedule to be specified by the IHS Headquarters Director of the CHR Program.

b. The CHR Activities Report User Manual provides complete definitions and procedures for reporting into the Community Health Representative Information System (CHRIS).

c. Each CHR Program, in cooperation with their respective IHS Area Office CHR Coordinator, will determine procedures for collecting CHR Activities data and creating automated records in the format described in the next section. Options include:

(1) Key-entry of forms at the CHR Program.

(2) Key-entry of forms at the Area.

(3) Key-entry of forms by a contractor.

(4) Key-entry of forms at the service unit.

d. Records will be consolidated at the Area level and forwarded to the Division of Data Processing Services (DDPS) at Albuquerque no later than two weeks after the last day of each sample reporting week.

e. The contractor will be required to submit on a quarterly basis a report to the Area Office which analyzes the differences between projected and actual services, and explains major differences.

2. Record Formats

a. The CHR Activities record contains individuals patient encounter and/or group encounter information. Each record is proposed as 39 characters in length. These specifications may be slightly modified after systems design work is completed.

b. The proposed format of the CHR Activities record is shown in Figures K–1 through K–3.

c. A draft CHR Activities Report form is included in Appendix A.

3. Transmission Media

a. CHR Activities records for each Area are generally mailed to DDPS on nine track unlabeled, unblocked EDCDIC tape. The Area Office and the contractor will need to determine how the data will be transmitted from the contractor to the Area.

4. RPMS CHR Data Entry System

a. There is available an RPMS ANSI MUMPS CHR data entry program which allows for records to be keyed locally, transmitted to the Area, and forwarded from the Area to DDPS by telecommunications.

CHR ACTIVITIES RECORD

[Note: All fields are required reporting fields]

Position	Field	Required
	A. Header Information	
1–4	PROVIDER (Last 4 digits of each CHR's Social Security Number unless otherwise instructed by the CHR's supervisor. If more than one CHR in the same CHR program have the same last four Social Security Number digits, a different 4-digit number may be given by the CHR supervisor to use.).	All
5–11	PROGRAM	
	5–6 Area Code	
	7–8 Service Unit Code	
	9–11 Tribe/Community Code	
12–17	DATE	
	12–13 Month (01–12)	
	14–15 Day (01–31)	
	16–17 Year (last 2 digits of year)	
18–19	PAGE	
	18 Specific Report Page	
	19 Total Reporting Pages for that day ("Page of " is used to distinguish between forms when one CHR provides more services than can be reported on one reporting form.)	
	B. Service Data	
	Note: One line is used for each service provided on the day to which the form applies. If more services are performed on one day than can be reported on one CHR Activities form, an additional form(s) should be used and number as described above. All spaces should be filled in with information. If an item does not apply to a particular service, enter a dash "—", not a zero. For additional reporting instructions consult the CHR Activities Report User Manual..	

CHR ACTIVITIES RECORD—Continued

[Note: All fields are required reporting fields]

Position	Field	Required
20–21	Service Code 1 Provide Health Education Services 2 Case Find; Screen 3 Case Management—Coordinate 4 Monitor Patient 5 Provide Emergency Patient Care 6 Provide Non-Emergency Patient Care 7 Provide Homemaker Services 8 Transport; Deliver 9 Interpret; Translate 10 Provide Environmental Services 11 Administrative Reporting and Record Keeping 12 Provide Patient Clerical Services 13 Attend Meetings 14 Obtain Training 15 Other Administrative Services 16 Other Services	
22–23	Health Area 1 Diabetes 2 Cancer 3 Hypertension 4 AIDS 5 Communicable Disease 6 Substance Abuse 7 Community Injury Control 8 Health Promotion/Disease Prevention 91 Other General Medical 92 Dental 93 Gerontological 94 Maternal/Child Health 95 Mental Health 96 Environmental — Not Applicable	
24	Setting 1 Home 2 Hospital/Clinic 3 CHR Office 4 Community	
25–26	Age Two digits for age. If the recipient is less than 1 year of age use a zero, "0." If no personal service is given or a group is served, enter a dash, "—."	
27	Sex 1 Male 2 Female Where service for both males and females is provided or no direct client service is involved, enter a dash, "—."	
28–30	Number Served When a group service is provided, the number of participants receiving direct service is to be recorded here. If there is only one main client, enter a "1." A breast feeding class is an example of services provided for more than one person. If an infant is the main client, the number served is "1" even though the mother is instructed in infant care. Record the number of people served here. Enter a dash "—" in the box for a service in which people are not provided for directly, e.g., CHR administrative service.	
30–31	Referral From	
32–33	Referral To *Referral Codes* — None 1 Medical 2 Nursing 3 Dental 4 Eye 5 Social Worker 6 Substance Abuse Professional 7 Other Professional 8 Technician 9 Agency/Program 10 Family/Self/Community	
34–36	Minutes Used—Service	
37–39	Minutes Used—Travel	

L. Community Health Activity Reporting System

1. Reporting Requirement

a. A Community Health Activity record is required for all activities performed by each Public Health Nurse (PHN). These are to include both direct and indirect patient care contacts and all administrative and training activities. A CHA record must be completed on each discrete activity according to the time required for the activity. Each daily activity sheet should include records to account for the total time during the day that the PHN was on duty.

b. All reporting requirements and procedures are outlined in the CHA Reporting System Guide.

c. Each Area will define procedures for getting the data from each reporting

site. All data from each Area will be sent at least quarterly to the designated UNICORP data entry point.

d. Headquarters requirements can be met with a sampling procedure that uses one full week of activities per month in accordance with the sample reporting week schedule to be specified by IHS Headquarters. There is an RPMS ANSI MUMPS Generic Activities Reporting System (GARS) data entry program which allows for records to be submitted to Area for compilation and forwarded from Area to DDPS.

2. Record Formats

a. The CHA record contains data on each discrete activity performed by a Public Health Nurse. Each record is 82 characters in length.

b. The format of the CHA record is shown in Figure L–1.

c. A sample of the IHS CHA form is included in Appendix A.

3. Transmission Media

a. The CHA records are mailed to DDPS by UNICORP on nine track unlabeled, unblocked EBCDIC tape.

4. CHA Data Entry System

a. Currently all data is entered onto a data entry sheet. These are consolidated at the Area level and transmitted to UNICORP for data entry.

b. A MUMPS based Generic Activities Reporting System is being developed which will allow service units, contractors and/or Area Offices to do their own data entry and transmit the data via 9 track disks or data cartridges to the data center.

COMMUNITY HEALTH ACTIVITY RECORD FORMAT

Position	Field	Required
1–2	Record Code (Always "14")	
3–8	Area/Service Unit/Facility Code.	X
9–10	Position Code	X
11–16	Date (MMDDYY)	X
17–19	Community	X
20–21	Activity	X
22–24	Primary Purpose Code	X
25	First Visit	
26	Nursing Diagnosis	
27–29	Secondary Purpose Code	
30	First Visit	
31	Nursing Diagnosis	
32	Time for Activity (Hour(s))	X
33–34	Time for Activity (Minutes)	X

COMMUNITY HEALTH ACTIVITY RECORD FORMAT—Continued

Position	Field	Required
35–37	Number Counseled in Clinic/ Number Contacted in Group Session	
38–43	Health Record Number (Required for patient contacts)	
44–45	Date of Birth (Month)	X
46–47	Date of Birth (Day)	X
48–49	Date of Birth (Year)	X
50	Sex	X
51	Family Status	X
52	Travel Time (Hour(s))	
53–54	Travel Time (Minutes)	
55–56	Total Time (Hours)	
57–58	Total Time (Minutes)	
59–60	Leave Taken (Annual—Hours)	
61–62	Leave Taken (Annual—Minutes)	
63–64	Leave Taken (Sick—Hours)	
65–66	Leave Taken (Sick—Minutes)	
67–68	Leave Taken (Compensatory—Hours)	
69–70	Leave Taken (Compensatory—Minutes)	
71–72	Leave Taken (Station—Hours)	
73–74	Leave Taken (Station—Minutes)	
75–76	Leave Taken (Other—Hours)	
77–78	Leave Taken (Other—Minutes)	
79–80	Overtime Worked—Hours	
81–82	Overtime Worked—Minutes	
83–91	Social Security Number (Required for patient contacts).	X

M. Health Education Resources Management System (HERMS)

1. Reporting Requirements

a. The Indian Health Service Health Education Program developed a new data system—the Health Education Resources Management System (HERMS) over three years ago. This system has undergone several field tests, and all data during these tests have been generated manually by the field health education staff.

The HERMS includes a daily record encounter and this record system is required for service unit health education staff. This includes covered contractors.

b. HERMS forms are due in the Area Health Education Office. Specific collection procedures will be determined by the Area Health Education Branch Chief. The Area Office will collect and key-enter all data. The Area Health Education Office will be required to submit a quarterly report to the field staff and IHS Headquarters Director of the Health Education Program.

c. Part 3, Chapter 12 of the Indian Health Service Manual (Health Education) is currently being revised and will require the HERMS.

d. The HERMS forms are to be completed during one sample week (a 7 day week) per month in accordance with the HERMS reporting week schedule to be specified by the IHS Headquarters Director of the Health Education Program.

2. Record Format

a. The format of the HERMS form is shown in Figures M–1 through M–5.

b. A sample of the IHS HERMS form is included in Appendix A.

3. Reports

The following reports will be generated from the Health Education Resources Management System (HERMS) to be provided to Headquarters, Areas, and service unit/ tribal health education personnel as required.

Reports To Be Provided:

Report I: Quarterly Summary
Report II: Annual Summary
Report III: Quarterly Cost of Activities by Provider

4. RPMS MUMPS Data Entry System

There is an RPMS ANSI MUMPS Generic Activities Reporting System (GARS) data entry program which allows for records to be submitted to Area for compilation and forwarding from Area to the Division of Data Processing Services.

5. Additional Benefits

This new data system will enable the IHS and tribal programs to have the ability to collect and generate statistical data to address the efficiency and effectiveness of health education services, RAM issues relevant to staff productivity and cost benefit, reporting for Area and Headquarters requirements, justification and tracking system for staffing, etc.

Improved control, communication, coordination, and up-to-date reporting for categorical activities for the Chief, Health Education Branch, and Chief, Health Education Section, Indian Health Service, is also anticipated.

6. HERMS Manual

A complete instruction manual for the HERMS is available from the Area Health Education Office.

HERMS Record Reporting Instructions

Position	Field		Required
To Be Determined	Ia.	*Area Coding* is to be numbered according to the *IHS Standard Code Book*	X
	Ib.	*Service Unit/Tribal Program Coding* is to be numbered according to the *IHS Standard Code Book*	X
	Ic.	*PROVIDER NO.*: This number is assigned by the Area Branch Chief	X
	Id.	*FACILITY NO.*: Assigned in *IHS Standard Code Book.* Facility is where the Health Education staff member completes H.E.R.M.S. forms.	X
	Ie.	*MONTH*: Enter the Month that reports are being submitted for workload activities. *01–12*	X
	If.	*FISCAL YEAR*: Enter the last two digits of the fiscal year	X
	Ig.	*PAGE*: Enter the number of forms submitted for the reporting period, example: page 1 of 3 pages, page 2 of 3, page 3 of 3	
	Box I	*DATE*: List each day's date.	X
	Box II	*TASK MATRIX*: The purpose of this column is to identify those direct services which are provided in the course of health education activities. The following tasks are to be utilized in the task matrix categories: 100 series, Identification of Health Problems and Needs; 200 series, Design Educational Objectives and Develop Methodology; 300 series, Implementation/Teaching; 400 series, Health Education Program Evaluation; 500 series, Support Services; and 600 series, Professional Training. Use one line per task.	X
	Box III	*HEALTH EDUCATION PROGRAM CODES*: See back side of form—Box III	X
	Box IV	*NUMBER OF PEOPLE SERVED*: List the number of individuals reached in the appropriate box	
	Box V	*AGE CATEGORIES: Only list for "300" activities*	X
		Box V is to be used to indicate the age categories of individuals reached during "direct 300 level" health education activities. Select one age category that best represents the majority of the group	
		1=0–2 Infant	
		*2*3–5 Pre-school	
		*3*6–13 Elementary	
		*4*14–18 High School	
		*5*19–25 College/Young Adult	
		*6*26–55 Adult	
		*7*56+ Sr. Citizen	
		*8*All Ages, Mixed	
	Box VI	*TOTAL NUMBER OF PEOPLE REACHED*	X
	Box VII	*TASK/ACTIVITY HOURS*: Box 7 is to be used to code the number of service hours required for accomplishing the health education activity or task.	X
		Must be marked for each activity. Mark, to the nearest half hour, the time spent in carrying out the task. Example: an activity taking seven hours and 35 minutes, code as 07.5; five hours and 12 minutes code as 05.0	
	Box VIII	*TRAVEL TIME*: Travel will be handled as an activity and therefore this box will be eliminated.	
		Time is heavily influenced by such variables as distance, climate, number of Indian communities, etc	
		Box 8 is to be used when travel is required to carry out a health education activity	
		Includes the physical act of moving between ones usual work site (office) to other locations where client/patient services are to be rendered or performed. Include travel time for follow-up, evaluation, data collections. Mark to the nearest half hour. Example: travel time of 2 and ½ hours would be coded as 02.5	
	Box IX	*LOCATION*: Box 9 is to be used to identify the specific location of the program and educational activity. Utilize the following location codes to identify the specific location. Use a location code for each task.	X
		Location Codes (i.e., settings where services are being provided)	
		901 *Home*	
		902 *School*	
		903 *Clinic*	
		904 *Hospital*	
		905 *Tribal/Comm Bldg**	
		906 *Tribal Worksite*	
		907 *Recreational Facility*	
		908 *Street/Highway (Roadside)*	
		909 *Health Education Office*	
		910 *Other*	
	Box X	*COMMUNITY CODE*: The health educator is to identify the specific community where the service or activity was provided. *See the IHS Standard Code Book for the specific community code.* Available from the Health Education Area Office. *See Appendix A–111 for sample, pg 12..*	X

* (*905*—i.e., Services Center, Facility Building, Chapter House, Church, etc.)

HERMS Record Task Matrix

Code	Task
101	Needs Assessment.
102	Data Collection.
103	Analyze Data.
104	Summarize Data.
201	Educational Diagnosis.
202	Information Gathering/ Obtaining Resources.
203	Develop Program Objectives.
204	Establish Approach & Sequence of Events.
205	Materials Development & Design.
206	Publicizing & Promoting
301	Staff In-Service Training.

HERMS Record Task Matrix—Continued

Code	Task
302	Presentation & Discussion.
303	Staff Support w/ Education Activities.
304	Patient Education.
401	Process Evaluation.
402	Evaluation of Knowledge, Attitudes and Beliefs.
403	Outcome Evaluation.
404	Quality Assurance.
405	Reports.
406	Debriefing.
501	General Program Admin.

HERMS Record Task Matrix—Continued

Code	Task
502	Special Admin. Assignment (within Health Education).
503	Special Admin. Assignment (outside Health Education).
504	Staff Meetings.
505	Maintenance of Resource Center/Audiovisual Library.
506	Clerical Tasks.
601	Professional Training.
602	Self-Development.

HERMS RECORD TASK MATRIX—Continued

Code	Task
	Travel.

N. Nutrition and Dietetics Program Activities Reporting System (NDPARS)

1. Reporting Requirement

a. A one line entry is required to be completed on a Nutrition and Dietetics Program Activity Reporting System (NDPARS) form for each nutrition/dietetics activity. NDPARS forms are to be completed daily.

b. The NDPARS Users Manual provides complete definitions and procedures for completing the forms.

c. Each nutrition/dietetics staff member completes the forms and sends the forms to the Area Nutrition/Dietetics Branch Chief monthly. The Area sends the forms to Headquarters for entry into the computer.

d. Headquarters requirements can be met with a sampling procedure that uses one full week of activities per month in accordance with the sample reporting week schedule to be specified by IHS Headquarters. There is an RPMS ANSI MUMPS Generic Activities Reporting System (GARS) data entry program which allows for records to the submitted to Area for compilation and forwarding from Area to DDPS.

2. Record Format

a. The NDPARS record contains individual patient encounters and/or group encounter information. Additionally, the record contains program management, technical assistance, and training information.

b. The format of the NDPARS record is shown in Figures N–1 through N–4.

c. A NDPARS form is included in Appendix A.

3. Transmission Media

NDPARS records are mailed to Area Office and then Headquarters for data entry.

4. RPMS NDPARS Data Entry System

There is available an RPMS ANSI MUMPS NDPARS data entry program which allows for records to be keyed locally, transmitted to the Area, and forwarded from the Area to DDPS by telecommunications.

NDPARS RECORD

Position	Field	Required
This is a Fileman global and no export and merge programs are available at this time.	Header Information	
	NAME	X
	SERVICE UNIT	X
	DATE	X
	Service Data	
	NOTE: One line is used for each service provided. All spaces should be filled in with codes. For additional reporting instruction consult the NDPARS User Manual.	
	Function Code:	X
	01 Clinical Nutrition Services	
	02 Hospital Foodservice Systems Management	
	03 Community Nutrition Program Management	
	04 Routine Nutritional Care	
	05 Nutrition Education Service	
	06 N&D Program Coordination, Consultation & Technical Assistance	
	07 N&D Program Administration	
	08 Continuing Education	
	09 Continuing Training	
	10 Conducting Research/Writing for Professional publication	
	11 Leave	
	99 Other	
	PRIMARY PURPOSE CODE:	X
	101 Alcohol Related	
	102 Anemia	
	103 Calcium Controlled	
	104 Cancer	
	105 Clear Liquid	
	106 Diabetes	
	107 Dumping Syndrome	
	108 Elimination	
	109 Fat Controlled	
	110 Full Liquid	
	111 Gestational Diabetes	
	112 Gluten Free	
	113 High Protein	
	114 Hypoglycemia	
	115 Increased Fiber	
	116 Lactose Restricted	
	117 Low caffeine	
	118 Low Residue	
	119 Normal Nutrition	
	120 Potassium Controlled	
	121 Prenatal	
	122 Purine Restricted	
	123 Renal	
	124 Sodium Controlled	
	125 Tonsillectomy	

NDPARS RECORD—Continued

Position	Field	Required
	126 Tube Feeding	
	127 Undernutrition	
	128 Vegetation	
	129 Weight Control	
	130 Other Clinical Diets	
	131 Other Clinical Diets	
	201 Consultation/ Technical Assistance	
	202 Administrative/ Management	
	203 Educational Materials Review/ Development	
	204 Chart Review and/ or Quality Assurance	
	205 Staff Meetings	
	206 Employee Supervision/ Counseling	
	301 Travel	
	401 Not Nutrition/ Dietetics Related	
	999 Other	
	ENCOUNTER CODE:	X
	1 First Visit	
	2 Follow-up Visit	
	3 Limited Series	
	4 Ongoing	
	9 Other	
	RECIPIENT CODE:	X
	01 Patient	
	02 Community	
	03 CHR	
	04 Health Team	
	05 Tribal Staff	
	06 Dietary Staff	
	07 WIC Client	
	08 WIC Staff	
	09 Commodity Foods Client	
	10 Commodity Foods Staff	
	11 Headstart/Daycare Client	
	12 Headstart/Daycare Staff	
	13 Elderly Nutrition Program Client	
	14 Elderly Nutrition Program Staff	
	15 Alcohol/Substance Abuse Program Staff	
	16 Alcohol/Substance Abuse Program Staff	
	17 Schools, Student	
	18 Schools, Staff	
	19 Government Agency Staff	
	98 No Recipient	
	99 Other	
	RECIPIENT AGE CODE:	X
	1 Infant	
	2 Child	
	3 Adolescent	
	4 Adult	
	5 Elderly	
	6 All Ages	
	9 No Recipient Type	
	RECIPIENT TYPE CODE:	X
	1 Individual	
	2 Group	
	9 No Recipient Type	
	DELIVERY SETTING CODE:	X
	1 Hospital In-Patient	
	2 Clinic	
	3 Home	
	4 Community	

NDPARS RECORD—Continued

Position	Field	Required
	5 Hospital Dietary Department 6 Public Health Nutrition Department 7 Administrative 9 Other	
	NUMBER REACHED: Record actual number of people reached Write NA if no personal contacts were involved Record zero (0) for missed appointments and meetings where no one came	X
	SERVICE TIME: Record actual time spent in the activity (in hours and minutes)	X

O. Clinical Laboratory Workload Reporting System

1. Reporting Requirement

a. The workload recording system for IHS laboratories is contracted with the College of American Pathologists (CAP) national computerized workload system. Raw data are required to be collected monthly by the individual lab. CAP or a similar workload reporting system is recommended for contractors.

b. Workload data and productivity rates are computed, comparisons with other labs are included, and the report is sent back to the individual lab. Summary reports are sent by CAP to IHS Headquarters. Summary workload reports on a quarterly basis are the only time requirement of IHS Headquarters.

c. The CAP Instruction Manual for Computer Assisted Workload Program describes the reporting system.

2. Record Formats

a. CAP forms are tailored for a specific lab, although the basic data element collected (shown in Figure O–1) are the same. Each portion of the lab completes its own form. If it is desired to electronically generate the CAP data, then CAP needs to be contacted for instructions.

b. A sample of the CAP form is included in Appendix A.

3. Transmission Media

Data is to be sent either by mail or electronic communication to the CAP computer center.

CLINICAL LABORATORY WORKLOAD REPORTING SYSTEM

Data elements	Required for cap
1. Name of Lab	X
2. Month/Year	X
3. Procedure Name	X
4. CAP Code No.	X
5. Unit Value Per Procedure	X
6. Lab Section	X
7. Procedure Designation—IP/OP/QCSTD/REP.	X
8. Number of Procedures	X

From the above we get: Total Unit Value, Worked Productivity, Paid Productivity, Comparisons with other labs.

How we use it: For Determining Staffing, Scheduling, Space, Instrument and Equipment Requirements.

P. Urban Indian Health Common Reporting

1. Reporting Requirement

a. Urban Indian Projects are required to collect and report information from patient records as well as administrative and financial records. There is a facesheet (which must be included each time any table is submitted) and a series of 8 tables which need to be submitted on a semi-annual or annual basis. Some portions of the tables do not apply to some urban Indian health programs. The tables must be submitted by all organizations directly receiving Federal funds under title V of the 1976 Indian Health Care Improvement Act, Public Law 94–437 as amended.

b. The Urban Indian Health Programs Instruction Manual for Common Reporting Requirements provides complete definitions and procedures for reporting. Organizations must report on their entire health program activity even though it may be supported only in part by the IHS grant(s) or contract(s).

c. The semi-annual reporting period ends 26 weeks after the start of the fiscal year (FY) and the annual reporting period ends the last day of the FY. The reports are due into the IHS Area Offices 4 weeks after the end of the reporting period. IHS Area Officers review and send reports to the IHS Headquarters Office 5 weeks after the end of the reporting period. The IHS Office reviews and sends reports to the contractors for data entry and to the technical assistance contractor 6 weeks after the end of the reporting period.

2. Record Formats

a. A description of the facesheet and the 8 tables follows.

(1). Face sheet. Identifies the project, location, project director, etc.

(2). Table 1. Identifies the user population by age and sex.

(3). Table 2. Identifies the user population by type of provider and by Indian versus non-Indian status.

(4). Table 3. Collects information by health occupational group—also called functional cost center (number of full-time equivalent staff and number of encounters).

(5). Table 4. Provides hospital inpatient admissions and hospital inpatient encounters by type of service provider.

(6). Table 5. Provides information on the adherence to established treatment goals for the provision of follow-up activities (pap smear, hypertension, and diabetes), immunizations appropriate for age, family planning counseling, and anemia screening.

(7). Table 6. Provides financial information by various health care functions.

(8). Table 7. Provides financial information on monies the urban project receives from non-IHS sources.

(9). Table 8. Provides information on total receipts from all sources and total expenditures for each project.

b. Copies of the face sheet and the 8 tables are included in appendix A.

3. Transmission Media

a. The face sheet and tables are to be submitted in hardcopy format. Two (2) copies are to be submitted to the appropriate Project Officer or IHS Area Urban Coordinator.

Q. Fluoridation Reporting Data System

1. Reporting Requirements

a. Fluoride ion analysis records and fluoridator maintenance and repair records for community water systems will be maintained and submitted for centralized processing as described in the IHS Fluoridation Policy Issuance dated August 1981, and any subsequent updates. Each water system must be identified by its assigned EPA/Sanitary Facility Code and include the date of the activity. The general surveillance procedures are described in Table Q–1.

b. In most cases, local programs will report the required data on a weekly or monthly basis using any of several options:

(1) Submission of completed data forms directly to the IHS Area Office or IHS key entry contractor, or

(2) Submission of formatted records from data entered into local RPMS database, or

(3) Submission of formatted records from a local non-RPMS database.

The frequency schedule for submission of each type of fluoridation tracking data is shown on Table Q–2.

If the required data for water systems are maintained in an Area database, the data must be submitted for central processing to the IHS Division of Data Processing Services by the last day of each month.

2. Record Formats

a. The basic data elements for community fluoridation reporting are shown in Figure Q–1.

b. The keytape record format specifications for fluoride ion test results is shown in Figure Q–2 (formatted records can be extracted from existing RPMS software).

c. An example of the standard input form for reporting the results of fluoride ion analysis is shown in Appendix A. The use of this form is not required, but is highly recommended when data are not keyed into a computer locally.

The form for adding or deleting water systems for data reporting purposes is shown in Appendix A. Use of this form is *required* when the status of a water system is to be changed.

Table Q–1: Fluoridation Surveillance Procedures

1. Control Limits for Fluoridated Water Systems

The fluoride level in fluoridated water systems should be maintained as close to the recommended concentration as possible, and in no case above or below the ranges noted below.

Annual average of maximum daily air temperatures (OF)	Recommended fluoride concentrations		Allowable range of fluoride concentrations	
	Community (ppm)	School (ppm)	Community (ppm)	School (ppm)
50.0–53.7	1.2	5.4	1.1–1.7	4.3–6.5
53.8–58.3	1.1	5.0	1.0–1.6	4.0–6.0
58.4–63.8	1.0	4.5	0.9–1.5	3.6–5.4
63.9–70.6	0.9	4.1	0.8–1.4	3.3–4.9
70.7–79.2	0.8	3.6	0.7–1.3	2.9–4.3
79.3–90.5	0.7	3.2	0.6–1.2	1.6–3.8

2. Sample Collection and Analysis

a. Samples for analysis should be obtained from a convenient tap on a main line of water system that is representative of the water throughout the system. In some systems with multiple sources, more than one sample may be required.

b. Samples for fluoridation analysis should be collected and analyzed as follows:

- Weekly intervals w/split sample every fourth week.
- Anytime equipment failure or malfunction is suspected.
- Immediately following repair of equipment.

c. All fluoride monitoring instruments should have their measurement results verified by split sampling of the last sample collected each month. The split sample should be analyzed at a recognized laboratory, preferably an EPA or State approved facility.

3. Reporting

a. Analytical Results: Analytical results of all samples for each water system should be recorded on the Fluoride Analysis Report Form (HSA–T) and submitted to the address indicated on the form for data processing. Normally, this should be done by the system operator.

Table Q–2: Recommended Frequency Schedule for Submitting Fluoridation Data

Submission of Forms

The following tabulation indicates the forms and submission schedules that are required in order to develop meaningful data reports:

Input form	Frequency of input	Reports generated	Frequency of reports	Prime responsibility for inputting form
Sanitary Facility Data System Form Parts A & B.	Annually (data as of Oct. 1)	Sanitation Facility Data System Summary by Area/SU and replica of data input form.	Annually and upon request	Area OEH designee.
Fluoride Analysis Report Form.	At least weekly is recommended.	Fluoride Analysis Report	Monthly	Person doing fluoride concentration analysis.
Fluoride System Add/Delete Form.	As Fluoridators are added to or deleted from community water system.	No specific report—system will be added/deleted from the Fluoride Analysis Report or M&R Report as appropriate.	N/A	Area OEH Fluoridation coordinator.

COMMUNITY WATER FLUORIDATION REPORTING

[Fluoride Test Results]

Data element	Required
Sanitary facility code	X
Person conducting test	X
Fluoride test instrument	X
Fluoride test result	X

FLUORIDE TEST RESULTS RECORD LAYOUT:

DENTAL FLUORIDE RECORD FORMATS

RECORD: DENTAL FLUORIDE SURVEILLANCE KEYTAPE TRANSACTION

RECORD LENGTH: 128
RECORD FORM: FIX-BLK
BLKSIZE: 2560
BLKFACT: 20
OUTPUT SOURCE: FROM KEYTAPEING
MEDIA: MAGTAPE
INTERNAL NAME: N/A
DATA SET NAME: UNLABLED
INPUT SOURCE: TO MRSDENQO
MEDIA: MAGTAPE
INTERNAL NAME: MRSTAPE
DATA SET NAME: UNLABLED

Position	Leng	Field name	Contents
1-2	2	RECORD CODE	"21".
3	1		BLANK.
4-9	6	REPORT DATE	DATE SAMPLES TAKEN—MMDDYY.
10	1	INSTRUMENT USED #1	"C", "I", "S", "T" OR "X".
11-17	7	EPA SANITARY FACILITY CODE #1	VALID EPA-SFC (SYSTEM) CODE.
18-20	3	TEST RESULTS IN PPM #1	NUMERIC WITH 1 ASSUMED DECIMAL.
21	1	INSTRUMENT USED #2	"C", "I", "S", "T" OR "X".
22-28	7	EPA SANITARY FACILITY CODE #2	VALID EPA-SFC (SYSTEM) CODE.
29-31	3	TEST RESULTS IN PPM #2	NUMERIC WITH 1 ASSUMED DECIMAL.
32	1	INSTRUMENT USED #3	"C", "I", "S", "T" OR "X".
33-39	7	EPA SANITARY FACILITY CODE #3	VALID EPA-SFC (SYSTEM) CODE.
40-42	3	TEST RESULTS IN PPM #3	NUMERIC WITH 1 ASSUMED DECIMAL.
43	1	INSTRUMENT USED #4	"C", "I", "S", "T" OR "X".
44-50	7	EPA SANITARY FACILITY CODE #4	VALID EPA-SFC (SYSTEM) CODE.
51-53	3	TEST RESULTS IN PPM #4	NUMERIC WITH 1 ASSUMED DECIMAL.
54	1	INSTRUMENT USED #5	"C", "I", "S", "T" OR "X".
55-61	7	EPA SANITARY FACILITY CODE #5	VALID EPA-SFC (SYSTEM) CODE.
62-64	3	TEST RESULTS IN PPM #5	NUMERIC WITH 1 ASSUMED DECIMAL.
65	1	INSTRUMENT USED #6	"C", "I", "S", "T" OR "X".
66-72	7	EPA SANITARY FACILITY CODE #6	VALID EPA-SFC (SYSTEM) CODE.
73-75	3	TEST RESULTS IN PPM #6	NUMERIC WITH 1 ASSUMED DECIMAL.
76	1	INSTRUMENT USED #7	"C", "I", "S", "T" OR "X".
77-83	7	EPA SANITARY FACILITY CODE #7	VALID EPA-SFC (SYSTEM) CODE.
84-86	3	TEST RESULTS IN PPM #7	NUMERIC WITH 1 ASSUMED DECIMAL.
87	1	INSTRUMENT USED #8	"C", "I", "S", "T" OR "X".
88-94	7	EPA SANITARY FACILITY CODE #8	VALID EPA-SFC (SYSTEM) CODE.
95-97	3	TEST RESULTS IN PPM #8	NUMERIC WITH 1 ASSUMED DECIMAL.
98	1	INSTRUMENT USED #9	"C", "I", "S", "T" OR "X".
99-105	7	EPA SANITARY FACILITY CODE #9	VALID EPA-SFC (SYSTEM) CODE.
106-108	3	TEST RESULTS IN PPM #9	NUMERIC WITH 1 ASSUMED DECIMAL.
109	1	INSTRUMENT USED #10	"C", "I", "S", "T" OR "X".
110-116	7	EPA SANITARY FACILITY CODE #10	VALID EPA-SFC (SYSTEM) CODE.
117-119	3	TEST RESULTS IN PPM #10	NUMERIC WITH 1 ASSUMED DECIMAL.
120-128	9	ANALYST I.D.	ALPHA NUMERIC.

Dated: August 7, 1991

Everett R. Rhoades,

Assistant Surgeon General Director

[FR Doc. 92-1573 Filed 1-21-92; 8:45 am]

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federal register

Wednesday
January 22, 1992

Part III

The President

Proclamation 6401—Martin Luther King, Jr., Federal Holiday, 1992

Part III

The President

Federal Register
Vol. 57, No. 14
Wednesday, January 22, 1992

Presidential Documents

Title 3—

The President

Proclamation 6401 of January 17, 1992

Martin Luther King, Jr., Federal Holiday, 1992

By the President of the United States of America

A Proclamation

"The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy." On the 63rd anniversary of the birth of the Reverend Dr. Martin Luther King, Jr., we honor an American who took a brave stand for justice and equality, even though his message of racial harmony met with stubborn, sometimes brutal, opposition.

Martin Luther King told us that, in spite of the cruel reality of segregation in the United States, "I still have a dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up and live out the true meaning of its creed . . . ." He believed that for this creed to be truly fulfilled, his children would "one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

Throughout his years as leader of the civil rights movement, Dr. King adhered to an ethic of nonviolence. Time and again, he urged his listeners: "Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred. We must forever conduct ourselves on the high plane of dignity and discipline." King knew that it would take great patience, courage, and fortitude to wage a peaceful struggle in the face of sometimes bitter resistance, but he also knew that acting in the spirit of nonviolence could make virtue out of suffering. "The nonviolent approach . . . first does something to the hearts and souls of those committed to it," he explained. "It gives them new self-respect; it calls up resources of strength and courage that they did not know they had." Dr. King urged his listeners to rely on the force of moral truth.

Recognizing the redemptive power of love and sacrifice, King labored to lead the civil rights movement in a manner consistent with its noble goals. "You can't reach good ends through evil means," he explained, "because the means represent the seed and the end represents the tree." Dr. King aspired not only to change laws but also to plant in the hearts and minds of the American people a new sense of brotherhood.

King's approach was more than a rejection of bitterness and violence; it was a resounding affirmation of the dignity and potential of each individual. Sharing the faith that had been nurtured in him from youth, he declared that the key to "peace on earth and good will toward men is the . . . affirmation of the sacredness of all human life. Every man is somebody because he is a child of God." That message is worth repeating today.

During the past few decades, our Nation has made tremendous strides toward ensuring equal opportunity for all. The Civil Rights Act of 1957, the Civil Rights Act of 1964, and the Voting Rights Act of 1965 marked only the beginning of many important advances for minority men and women—advances that continue to this day. However, while we have overcome the painful legacy of legal segregation in this country, we know that many challenges remain. At a time when too many lives are being claimed by violence in our cities, by drug abuse, or by unfulfilled potential; at a time when too many young Americans lack confidence in themselves and in the future, we do well to reflect, once again, on Martin Luther King's timeless message—a

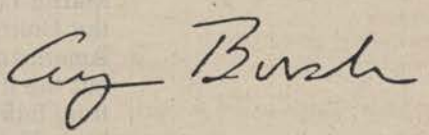
message that underscores the importance of faith, family, self-respect, and respect for others.

In his last public speech, given the night before he fell victim to the violence he so fervently opposed, Martin Luther King enjoined his listeners, "let us move on in these powerful days, these days of challenge, to make America a better nation . . . ." Recalling those words and his dream for America, let us make this occasion a time of renewed commitment to our families and to our fellowman.

By Public Law 98–144, the third Monday in January of each year has been designated as a legal public holiday.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, January 20, 1992, as the Martin Luther King, Jr., Federal Holiday.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of January, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 92–1743
Filed 1–21–92; 10:15 am]
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Editorial note: For the President's remarks on signing this proclamation, see the *Weekly Compilation of Presidential Documents*, issue no. 3.

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Vol. 57, No. 14

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FEDERAL REGISTER PAGES AND DATES, JANUARY

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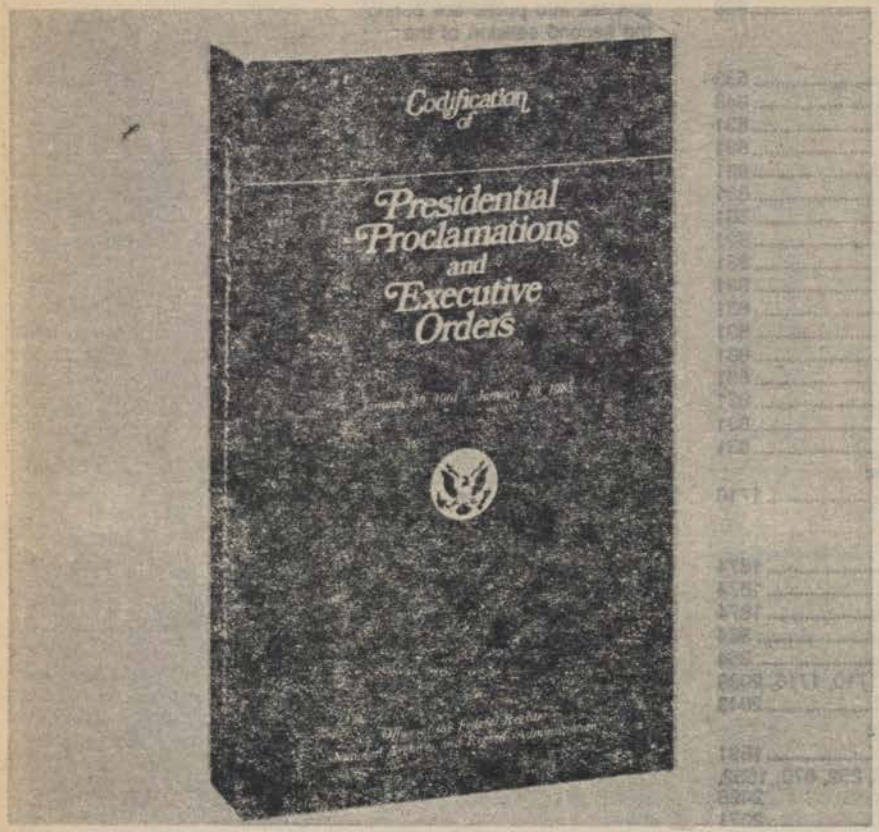
.... Order now ! . . . .



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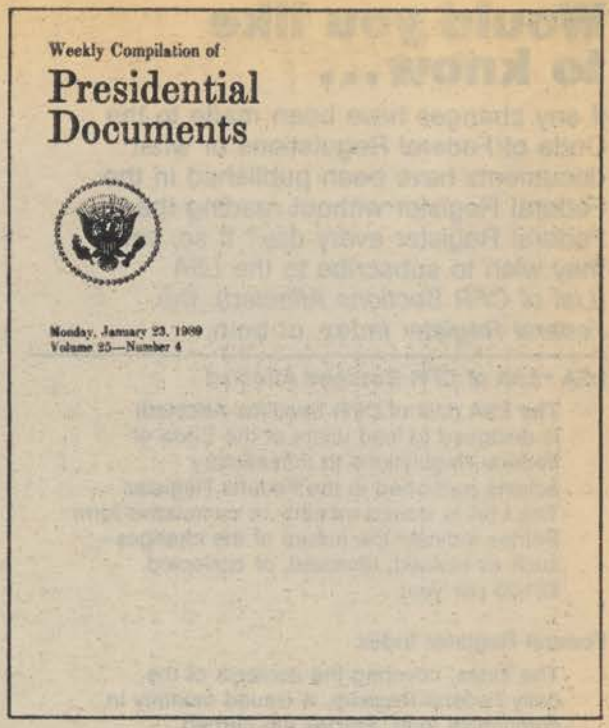

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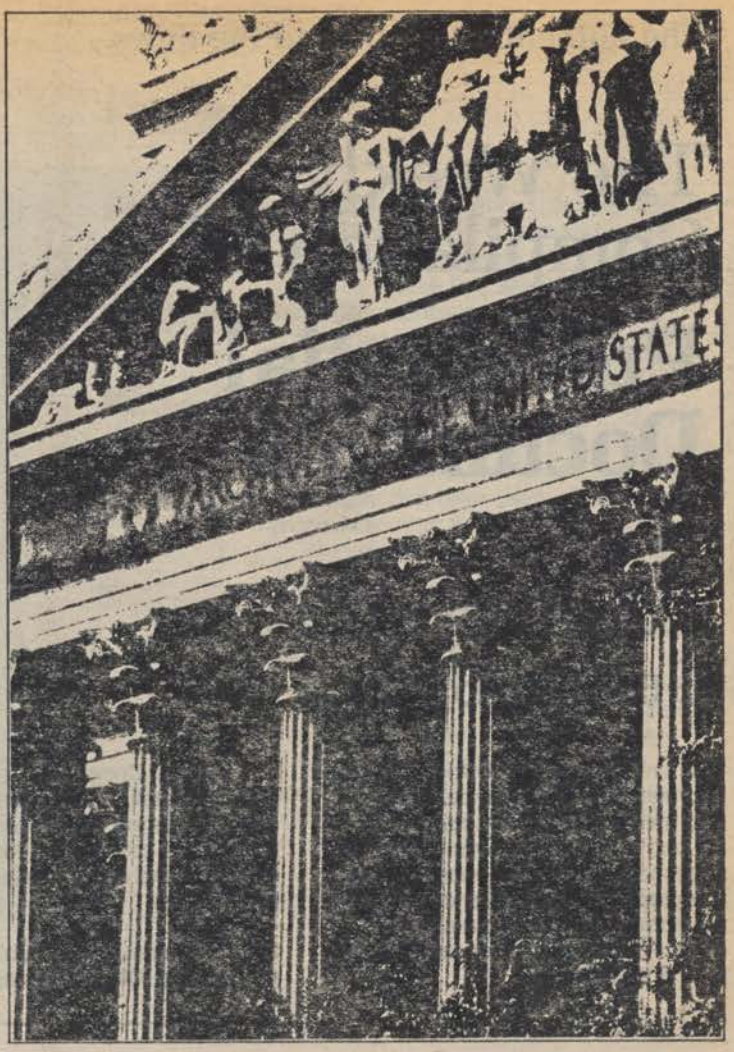

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